

**INITIAL STUDY**

**FOR THE**

**LANDESS/MORRILL**  
**GENERAL PLAN AMENDMENT**  
**& CONVENTIONAL REZONING**

File #s: GP07-04-03, C07-084

**CITY OF SAN JOSE**

**October 2008**

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# Chapter 1. Background Information

## PROJECT DATA

1. **Project Title:** Landess/Morrill General Plan Amendment (file no. GP07-04-03) and Conventional Rezoning (file no. C07-084)
2. **Lead Agency Name and Address:** City of San Jose Planning, Building and Code Enforcement, 200 E. Santa Clara Street, San Jose, CA 95113. Contact: Bill Roth, Bill.Roth@sanjoseca.gov (408) 535-7873
3. **Project Location:** 0.96 acre site located at the southeast corner of Landess Avenue and Morrill Avenue in San Jose
4. **Assessor's Parcel Numbers:** 092-20-139, 092-20-008
5. **Project Proponent:** CFC Capital Group, 500 Calaveras Blvd., Suite 329, Milpitas, CA Contact: Moon Pham (408) 934-7888
6. **Environmental Consultant:** Denise Duffy & Associates, Inc. Main Office: 947 Cass Street, Monterey, CA Contact: Leianne Humble (831) 373-4341
7. **Project Description:** Request to change the San Jose 2020 General Plan Land Use/Transportation Diagram designation from *Medium Density Residential (8-16 du/ac)* on 0.6 acres and *Medium Low Density Residential (8 du/ac)* on 0.36 acres to *Neighborhood/Community Commercial* on the entire site. The project also includes a conventional rezoning from CO (Commercial Office) to CP (Commercial Pedestrian).

## Chapter 2. Project Description

### INTRODUCTION

This Initial Study has been prepared pursuant to the requirements of the California Environmental Quality Act (CEQA). The purpose of an Initial Study is to determine whether a proposed project could significantly affect the environment, requiring the preparation and distribution of an Environmental Impact Report. Based on the following analysis, it appears that the environmental impacts would be less-than-significant, making it eligible for a Negative Declaration.

### PROJECT LOCATION

The project site is located on 0.96 acres at the southeast corner of Landess Avenue and Morrill Avenue in San Jose, in Santa Clara County (see Figure 1). The site is located on Assessor's Parcel Numbers (APNs) 092-20-008 and 092-20-139, as shown in Figure 2.

The project site contains a two-story 13,088 square foot building that is currently occupied by the San Jose Korean Presbyterian Church. An aerial of the project area is provided in Figure 3. Photographs of the project site are presented in Figure 4.

### PROJECT DESCRIPTION

#### *General Plan Amendment*

The project applicant is applying for a General Plan amendment (GPA) on the 0.96-acre project site (file no. GP07-04-03). The project proposes to change the San Jose 2020 General Plan Land Use/Transportation Diagram designation from *Medium Density Residential (8-16 du/ac)* on 0.6 acres and *Medium Low Density Residential (8 du/ac)* on 0.36 acres to *Neighborhood/Community Commercial* on the entire site (see Figure 5).

#### *Rezoning*

The project is also proposing a conventional rezoning from CO (Commercial Office) to CP (Commercial Pedestrian) (file no. C07-084). A zoning map is presented in Figure 6. The CP zoning is intended to support pedestrian oriented retail activity at a scale compatible with surrounding residential neighborhoods. The rezoning would permit demolition of the existing church and construction of a 13,365 square foot, single-story retail center on the site. Parking for approximately 58 vehicles is proposed in a surface lot behind the commercial building. A conceptual site plan and elevation are presented in Figures 7 and 8, respectively.

### PROJECT OBJECTIVES

The purpose of the project is to change the General Plan designation to *Neighborhood/Community Commercial* and rezone the site to CP to allow for a small commercial retail center, intended to serve the local community.

### REQUIRED APPROVALS

It is the intent of this Initial Study to provide the City of San Jose and the general public with the relevant environmental information to use in considering the project. The City of San Jose would use the environmental document for discretionary approval of the proposed General Plan amendment. The project will require the following approvals:

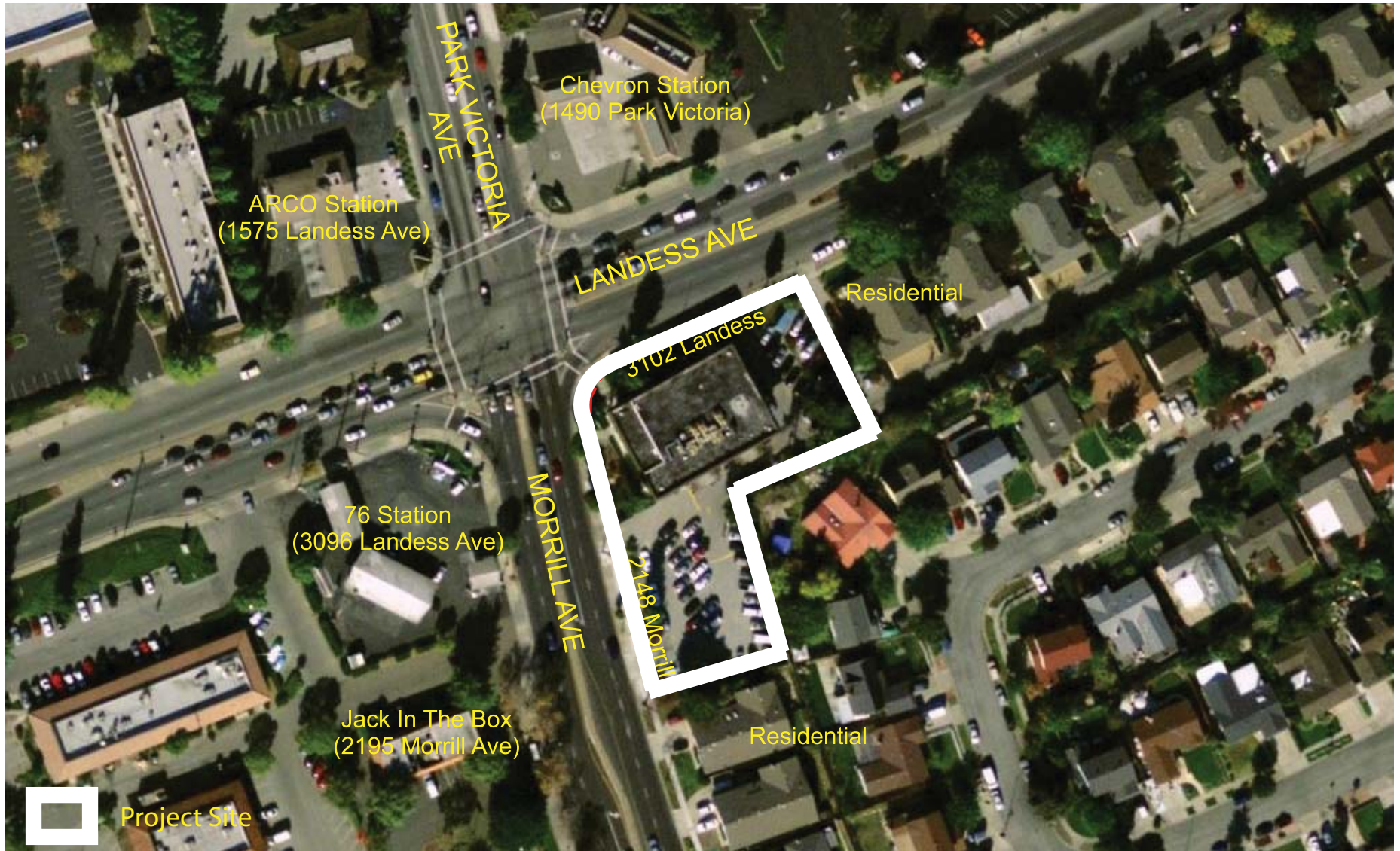
- City of San Jose – Environmental Clearance (Negative Declaration)
- City of San Jose – General Plan Amendment, Conventional Rezoning



Regional Map

Figure  
1





Source: AEI, 2008



Aerial Map

Figure

3



Photo 1. View of subject property looking southwest from Landess Avenue.



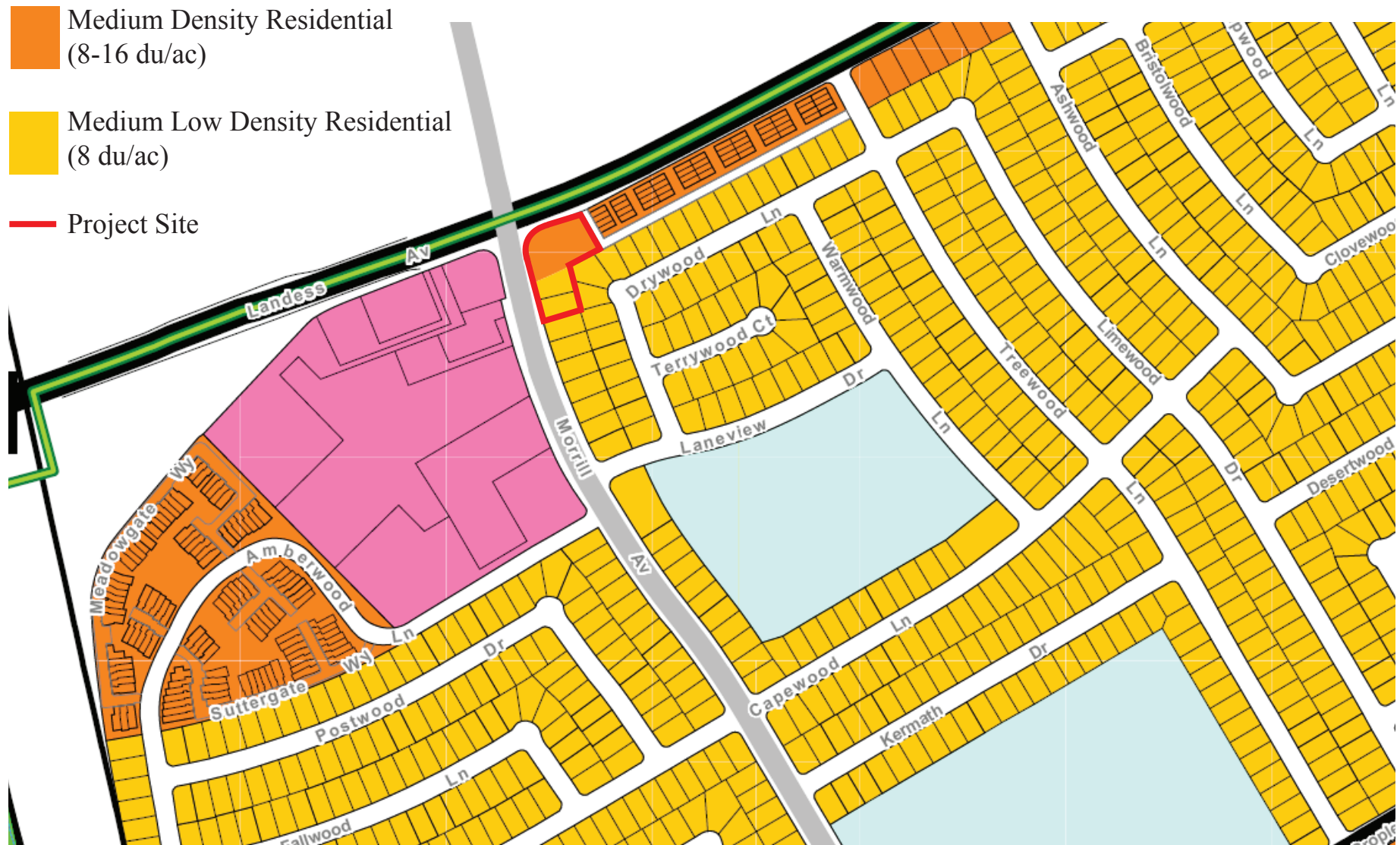
Photo 2. View of subject property looking northeast from Morrill Avenue with church and parking lot.



Photo 3. View of subject property looking southeast from Landess Avenue.

## Site Photos

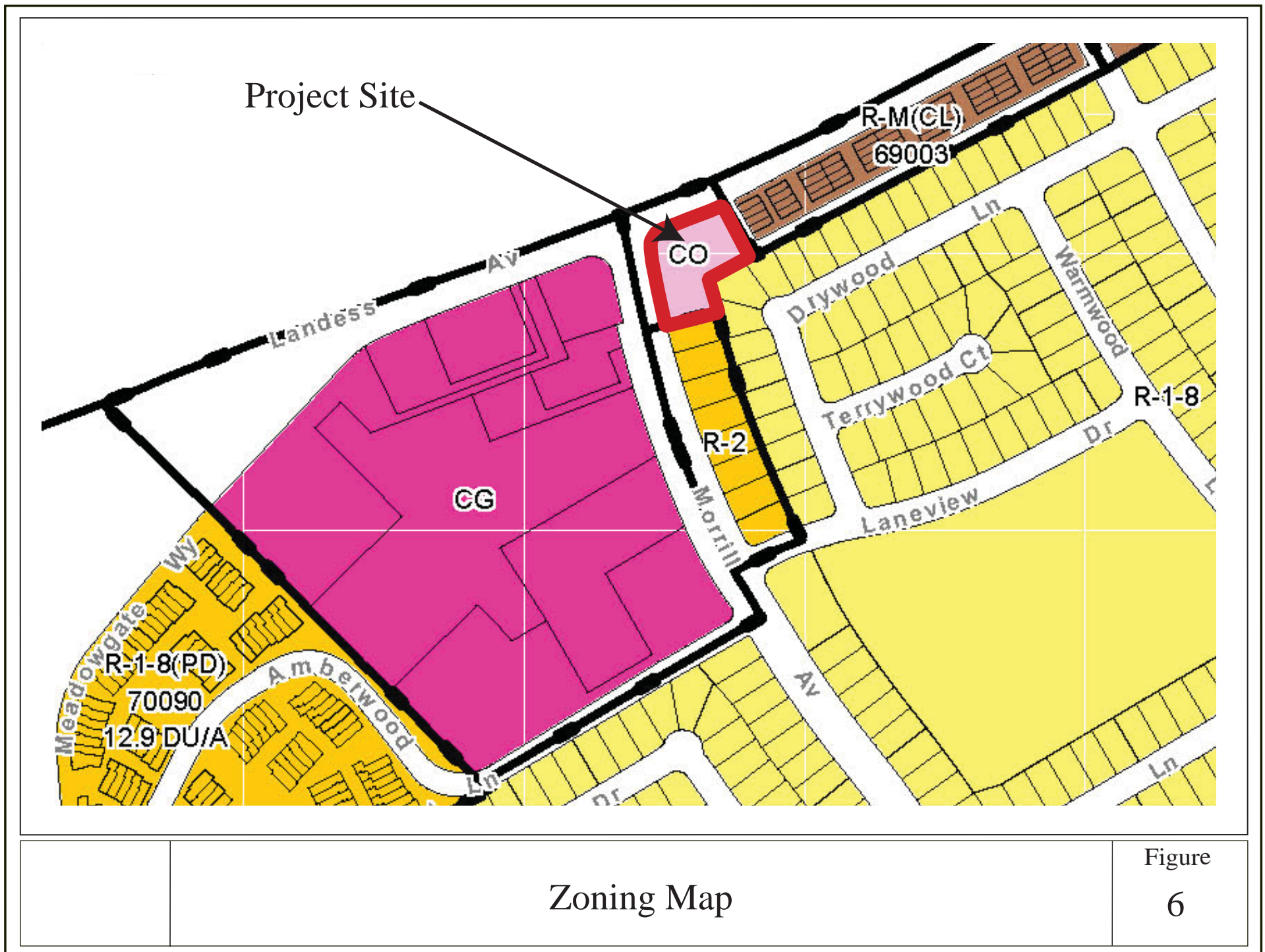
Figure  
4



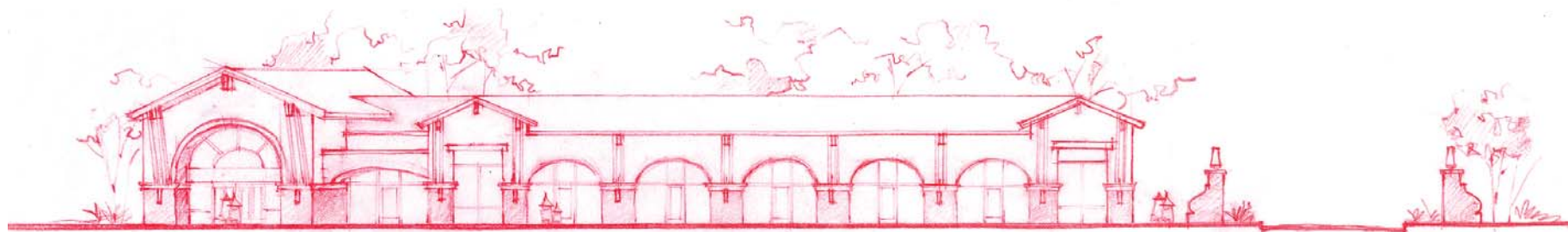
Existing General Plan Designations

Figure

5







Source: LPMD Architects, 2008

## Site Elevations

Figure  
8

## Chapter 3. Environmental Setting, Impacts and Mitigation

### INTRODUCTION

The following section describes the environmental setting, and identifies the environmental impacts anticipated from development of the proposed project. The criteria provided in the CEQA environmental checklist were used to identify potentially significant environmental impacts associated with the project. Mitigation is presented for potentially significant impacts. Sources used for analysis of potential impacts are cited in the checklist and listed in Chapter 4.

#### A. AESTHETICS

##### Introduction

The City's General Plan contains policies adopted for the purpose of avoiding or mitigating visual and aesthetic impacts resulting from planned development within the City. All future development allowed by the proposed land use designation would be subject to the visual and aesthetic policies listed in Chapter 4, Goals and Policies, of the City's General Plan, including the following:

- Urban Design Policy #1: Apply Strong Architectural & Site Design Controls on Development
- Urban Design Policy #2: Private Development should include Adequate Landscaped Areas
- Urban Design Policy #8: Design to consider Security, Aesthetics and Public Safety
- Urban Design Policy #10: Limits Building Height

In addition to the policies of the San Jose General Plan, future development allowed by the proposed land use designation would be required to comply with the following City policies and guidelines:

- San Jose Outdoor Lighting Policy (City Council Policy 4-3, as revised 6/20/00)
- San Jose Commercial Design Guidelines

##### Setting

The existing project site contains a two-story church and parking areas. The visual character of the property is that of an older office-style building, pavement, limited landscaping, and planted trees (refer to the Site Photos in Figure 4). The visual character of the larger project area is urban, and consists of commercial and residential development. There are no scenic resources on the project site or in the project area.

##### Impacts and Mitigation

##### *Thresholds per CEQA Checklist*

ENVIRONMENTAL IMPACTS	Potentially Significant Issues	Potentially Significant Unless Mitigation Incorporated	Less Than Significant Impact	No Impact	Source(s)
1. AESTHETICS. Would the project:					
a) Have a substantial adverse effect on a scenic vista?				X	1, 2, 3

ENVIRONMENTAL IMPACTS	Potentially Significant Issues	Potentially Significant Unless Mitigation Incorporated	Less Than Significant Impact	No Impact	Source(s)
b) Substantially damage scenic resources, including but not limited to trees, rock outcroppings, and historic buildings within a state scenic highway?			X		1, 2, 3
c) Substantially degrade the existing visual character or quality of the site and its surroundings?			X		1, 2
d) Create a new source of substantial light or glare, which would adversely affect day or nighttime views in the area?			X		1, 2
e) Increase the amount of shade in public or private open space on adjacent sites?				X	1, 2

## Discussion

The project would not adversely affect any scenic vistas or scenic resources, since it is located on a developed site in a highly urbanized area surrounded by buildings and roads. In addition, the project would not increase the amount of shade in public or private open space areas.

The proposed General Plan amendment and rezoning would allow for the development of commercial uses on the project site. Development would consist of a 13,365 square foot shopping center. This use is consistent with the proposed *Neighborhood/Community Commercial* designation and CP rezoning, which allow for small-scale commercial centers. The proposed commercial building would be one story in height, and in accordance with the 50 foot height restriction for the area.

The project site contains 27 planted trees, 11 of which are ordinance-sized (greater than 56 inches in circumference). Proposed commercial development could result in the removal of some of these trees; however, all trees to be removed would require replacement in accordance with City regulations (see **D. Biological Resources**).

Proposed commercial development would include lighting for security and site recognition. These sources would consist of outdoor lighting of parking areas, driveways, walkways, and lighted commercial signage. The site currently contains security lighting. In addition, street lamps are located along Landess and Morrill Avenues. The change in night lighting from new commercial development would be negligible, since the area is already well lit. Proposed commercial development would also be required to conform to the City's policies and regulations regarding outdoor lighting (including City Council Policy 4-3).

The proposed General Plan amendment and proposed commercial uses would not result in significant visual impacts, since the site is already developed and located within an urban setting. In addition, future development would be subject to the City's Commercial Design Guidelines to further enhance the visual character of development.

## B. AGRICULTURAL RESOURCES

### Setting

In California, agricultural land is also given consideration under CEQA. According to Public Resources Code §21060.1, "agricultural land" is identified as prime farmland, farmland of statewide importance, or unique farmland, as defined by the USDA land inventory and monitoring criteria, as modified for California. CEQA also

considers impacts on lands that are under Williamson Act contracts. The project property is identified on the Santa Clara County Important Farmlands Map (2008) as “urban/built up land.” The site does not contain any important or prime farmland.

## Impacts and Mitigation

### *Thresholds per CEQA Checklist*

ENVIRONMENTAL IMPACTS	Potentially Significant Issues	Potentially Significant Unless Mitigation Incorporated	Less Than Significant Impact	No Impact	Source(s)
2. AGRICULTURE RESOURCES. In determining whether impacts to agricultural resources are significant environmental effects, lead agencies may refer to the California Agricultural Land Evaluation and Site Assessment Model (1997) prepared by the California Department of Conservation as an optional model to use in assessing impacts on agriculture and farmland. Would the project:					
a) Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use?				X	2, 4
b) Conflict with existing zoning for agricultural use, or a Williamson Act contract?				X	1, 2
c) Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland to non-agricultural use?				X	1, 2

## Discussion

The project is not located on property identified as important or prime farmland on the Santa Clara County Important Farmlands Map. In addition, the site is not under Williamson Act contract and does not involve any agricultural uses. The project, therefore, would not impact agricultural land or resources.

## C. AIR QUALITY

### Introduction

The City’s General Plan contains policies adopted for the purpose of avoiding or mitigating air quality impacts resulting from planned development within the City. All future development allowed by the proposed land use designation would be subject to the air quality policies listed in Chapter 4, Goals and Policies, of the City’s General Plan, including the following:

- Air Quality Policy #1: Establish Appropriate Land Uses & Regulations to Reduce Air Pollution
- Air Quality Policy #2: Promote Expansion & Improvement of Public Transportation Systems
- Air Quality Policy #5: Design Development near Transit Stations to Promote Transit Usage
- Transportation Policy #17: Encourage Pedestrian Travel
- Transportation Policy #19: Encourage Walking, Bicycling, and Public Transportation
- Transportation Policy #23: Design Street and Sidewalks to Promote Transit Access
- Transportation Policy #28: Promote Implementation of Transportation Demand Management Measures
- Transportation Policy #51: Develop a Safe and Direct Bicycle Network
- Commercial Land Use Policy #1: Distribute Commercial Land Uses to Minimize Auto Travel

In addition to the General Plan policies, all future development allowed by the proposed General Plan amendment would be subject to the City’s Grading Ordinance, which mandates that all earthmoving activities

include requirements to control fugitive dust, including regular watering of the ground surface, cleaning nearby streets, damp sweeping, and planting any areas left vacant for extensive periods of time.

## Setting

The project is located within the San Francisco Bay Area Air Basin. The Bay Area Air Quality Management District (BAAQMD) is the local agency authorized to regulate stationary air quality sources in the Bay Area. The BAAQMD develops and enforces air quality regulations for non-vehicular sources, issues permits, participates in air quality planning, and operates a regional air quality monitoring network. The federal Clean Air Act and the California Clean Air Act mandate the control and reduction of certain air pollutants. Under this Act, the U.S. Environmental Protection Agency and the California Air Resources Board have established ambient air quality standards for certain "criteria" pollutants, in order to protect public health and welfare. Primary criteria pollutants include carbon monoxide (CO), reactive organic gases (ROG), nitrogen oxides (NO<sub>x</sub>), particulate matter (PM<sub>10</sub>), sulfur dioxide (SO<sub>2</sub>), and lead (Pb). Secondary criteria pollutants include ozone (O<sub>3</sub>), and fine particulate matter (aerosols).

The federal Clean Air Act and the California Clean Air Act require that the California Air Resources Board, based on air quality monitoring data, designate portions of the state where the federal or state ambient air quality standards are not met as "nonattainment areas." Because of the differences between the national and state standards, the designation of nonattainment areas is different under the federal and state legislation. The Bay Area is currently a nonattainment area for the state 1-hour ozone standard. However, the Bay Area has attained the national 1-hour ozone standard.

The California Air Resources Board and U.S. EPA have proposed that the San Francisco Bay Area be classified as a nonattainment area for the federal 8-hour ozone standard. The California Air Resources Board and U.S. EPA have proposed that the San Francisco Bay Area be considered unclassifiable with respect to the federal PM<sub>2.5</sub> standards. Unclassifiable means that an area cannot be classified on the basis of available information as meeting or not meeting the national primary or secondary ambient air quality standard for the pollutant. Under the California Clean Air Act, Santa Clara County is a nonattainment area for ozone and PM<sub>10</sub>. The county is either in attainment or unclassified for other pollutants. The California Clean Air Act requires local air pollution control districts to prepare air quality attainment plans. These plans must provide for district-wide emission reductions of five percent per year averaged over consecutive three-year periods or if not, provide for adoption of "all feasible measures on an expeditious schedule."

The BAAQMD defines sensitive receptors as facilities where sensitive population groups are found. These land uses include residences, schools, playgrounds, retirement homes, and hospitals. The nearest receptors in the area are residential uses located east and south of the project site.

## Impacts and Mitigation

### *Thresholds per CEQA Checklist*

ENVIRONMENTAL IMPACTS	Potentially Significant Issues	Potentially Significant Unless Mitigation Incorporated	Less Than Significant Impact	No Impact	Source(s)
3. AIR QUALITY. Where available, the significance criteria established by the applicable air quality management or air pollution control district may be relied upon to make the following determinations. Would the project:					
a) Conflict with or obstruct implementation of the applicable air quality plan?				X	1, 5

ENVIRONMENTAL IMPACTS	Potentially Significant Issues	Potentially Significant Unless Mitigation Incorporated	Less Than Significant Impact	No Impact	Source(s)
b) Violate any air quality standard or contribute to an existing or projected air quality violation?			X		1, 5
c) Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal or state ambient air quality standard (including releasing emissions, which exceed quantitative thresholds for ozone precursors)?				X	1, 5
d) Expose sensitive receptors to substantial pollutant concentrations?			X		1, 5
e) Create objectionable odors affecting a substantial number of people?				X	1

## Discussion

### *Long-term Impacts*

The project area is governed by the BAAQMD. The most recent update to the BAAQMD CEQA Air Quality Guidelines was prepared to guide assessment of air quality impacts of a project. Together with the Air Quality Management Plan, it provides guidelines to determine compliance with state and federal air quality standards and requirements for CEQA analysis (*BAAQMD CEQA Guidelines*, 1999).

The proposed commercial development would generate approximately 535 daily trips, based on a rate of 40 trips/1,000 square feet of retail (City of San Jose, Interim Guidelines for Traffic Impact Analysis of Land Developments, “Common Vehicular Trip Generation Rates for the San Jose Area,” March 1994). Since the project would generate fewer than 2,000 daily vehicle trips, modeling of future air pollution emissions is not required and the project’s contribution to regional air pollution emissions is considered less-than-significant, in accordance with BAAQMD guidelines.

### *Construction Impacts*

Commercial development associated with the General Plan amendment and rezoning would result in short-term air quality impacts during construction. Construction activities, including demolition and site clearing, could generate dust emissions and locally elevated levels of particulates (PM<sub>10</sub>) downwind of construction activities. Commercial development would be subject to the applicable General Plan policies regarding air quality and the City’s Grading Ordinance. In addition, standard dust abatement measures would be implemented consistent with City requirements. The project’s adherence to these requirements would avoid significant air quality impacts during construction.

### *Consistency with Clean Air Plan*

The current Clean Air Plan (CAP), *2005 Ozone Strategy*, was adopted by BAAQMD on January 4, 2006. This plan is based on population projections through 2020 compiled by the Association of Bay Area Governments (ABAG). The *2005 Ozone Strategy* uses population projections that extend beyond the City’s General Plan buildout year of 2020. The City estimates that the population of San Jose at General Plan buildout would be approximately 1.27 million, which is higher than the 1.15 million population projected for San Jose by 2025 used for the CAP. The City’s estimate, however, is consistent with the figures from ABAG of 1.34 million by 2030.

BAAQMD staff has indicated that the next update of the CAP would utilize the latest available population projections from ABAG.

The proposed General Plan land use change from residential to commercial uses could produce more vehicle trips to the project site, since commercial development typically generates more traffic than (medium density) residential uses. It is expected that these would be local trips, since the proposed commercial uses are intended to serve the nearby community. The change in land use would not induce additional population growth, nor would it generate regional traffic trips. Therefore, the project is not expected to conflict with current air planning efforts.

### **Project-Level Measures to be Considered at Development Level**

- Implement standard dust control measures during construction of future development.

## **D. BIOLOGICAL RESOURCES**

### **Introduction**

The City's General Plan contains policies adopted for the purpose of avoiding or mitigating biological impacts resulting from planned development within the City. All future development allowed by the proposed land use designation would be subject to the biological resource policies listed in Chapter 4, Goals and Policies, of the City's General Plan, including the following:

- Species of Concern Policy #2: Retain Habitat Areas that Support Species of Concern
- Urban Forest Policy #2: Preserve Ordinance-sized and Other Significant Trees
- Urban Forest Policy #3: Encourage the Maintenance of Mature Trees
- Urban Forest Policy #5: Encourage Appropriate Tree Selection and Placement
- Urban Forest Policy #6: Use Tree Species with Low Water Requirements
- Urban Forest Policy #7: Incorporate Trees that Support Urban Wildlife
- Urban Design Policy #2: Include Adequate Landscaping in Private Development
- Urban Design Policy #24: Preserve Ordinance-Sized and Other Significant Trees in New Development

### **Setting**

The project site is located on a developed parcel. Vegetation on the site consists of landscaping and planted trees. The project site contains 27 planted trees, as documented in the arborist report (Appendix A) and summarized in Table 1. Ordinance-sized trees are considered sensitive resources. The City of San Jose's Municipal Code (13.32.20.I) serves to protect all trees, including any live or dead woody perennial plant, having a main stem or trunk 56 inches or more in circumference (i.e., 18 inches in diameter) at a height of 24 inches above the natural grade slope. Based on this criteria, the project site contains 11 ordinance-sized trees.

City-designated heritage trees are also considered sensitive resources. A heritage tree is any tree located on private property, which because of factors including (but not limited to) its history, girth, height, species, or unique quality, has been found by the City Council to have special significance to the community. It is unlawful to vandalize, mutilate, remove or destroy heritage trees. There are no City-designated heritage trees in the project area, as per the City's heritage tree list.

Table 1 Tree Summary				
No	Scientific Name	Common Name	Size (diameter/circumference)	Condition
1	<i>Pinus radiata</i>	Monterey Pine	<b>26.3"/83"</b>	<b>2</b>
2	<i>Magnolia grandiflora</i>	Southern Magnolia	1.4" @ 6"/4" @ 6"	2
3	<i>Magnolia grandiflora</i>	Southern Magnolia	7.3"@6"/26"@6"	3
4	<i>Pyrus calleryana 'Bradford'</i>	Bradford Pear	14.6"/46"	3
5	<i>Washingtonia robusta</i>	Mexican Fan Palm	<b>28.8"/91"</b>	<b>4</b>
6	<i>Washingtonia robusta</i>	Mexican Fan Palm	<b>27.2"/86"</b>	<b>4</b>
7	<i>Prunus cerasifera</i>	Purple Cherry Plum	5.2" @ 12"/16" @ 12"	3
8	<i>Washingtonia robusta</i>	Mexican Fan Palm	<b>25.8"/79"</b>	<b>4</b>
9	<i>Cedrus deodara</i>	Deodar Cedar	<b>22.6"/72"</b>	<b>4</b>
10	<i>Magnolia grandiflora</i>	Southern Magnolia	12.9"/41	4
11	<i>Magnolia grandiflora</i>	Southern Magnolia	13.6/43"	4
12	<i>Cedrus deodara</i>	Deodar Cedar	<b>21.2"/66"</b>	<b>4</b>
13	<i>Magnolia grandiflora</i>	Southern Magnolia	16.7"/53"	4
14	<i>Magnolia grandiflora</i>	Southern Magnolia	12.1"/38"	4
15	<i>Magnolia grandiflora</i>	Southern Magnolia	3.7"/12"	4
16	<i>Washingtonia robusta</i>	Mexican Fan Palm	<b>25.8"/78"</b>	<b>4</b>
17	<i>Ulmus parvifolia</i>	Chinese Elm	~16"/~48"	3
18	<i>Pinus radiata</i>	Monterey Pine	<b>23.9"/80"</b>	<b>1</b>
19	<i>Pinus radiata</i>	Monterey Pine	<b>24.7"/78"</b>	<b>2</b>
20	<i>Pinus radiata</i>	Monterey Pine	<b>18.5"/59"</b>	<b>1</b>
21	<i>Prunus communus"</i>	Plum	11.3"/37"	1
22	<i>Pinus radiata</i>	Monterey Pine	16.8"/53"	1
23	<i>Ligustrum lucidum</i>	Glossy Privet	9.8" @ 12"/31" @ 12"	1
24	<i>Morus alba</i>	Fruitless Mulberry	<b>~24"/~73"</b>	<b>3</b>
25	<i>Quercus ilex</i>	Holly Oak	8.6"/28"	3
26	<i>Quercus ilex</i>	Holly Oak	7.3"/24"	3
27	<i>Cupressocyparis leylandii</i>	Leyland Cypress	<b>obscured</b>	<b>2</b>
Notes: Circumference/diameter at two feet above existing grade. Numbers correspond to tree locations provided in Appendix A. Ordinance sized trees (56 inches or greater in circumference) are shown in <b>bold</b> . Condition is judged on a scale of 1 to 5, with 1 representing very poor and 5 representing excellent. Source: Ray Morneau, April 2008.				

Due to the developed nature of the site, it has low habitat value for wildlife. The landscape trees may provide habitat for species associated with urban areas, including urban adapted birds such as house sparrow (*Passer domesticus*), northern mockingbird (*Mimus polyglottos*), mourning dove (*Zenaida macroura*), Brewer's blackbird, and American crow.

## Impacts and Mitigation

### Thresholds per CEQA Checklist

ENVIRONMENTAL IMPACTS	Potentially Significant Issues	Potentially Significant Unless Mitigation Incorporated	Less Than Significant Impact	No Impact	Source(s)
<b>4. BIOLOGICAL RESOURCES. Would the project:</b>					
a) Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special-status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service?				X	1, 2
b) Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations or by the California Department of Fish and Game or U.S. Fish and Wildlife Service?				X	1, 2
c) Have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?				X	1, 2
d) Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites?				X	1, 2
e) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?			X		1, 6
f) Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional or state habitat conservation plan?				X	1

## Discussion

Construction of future commercial development may result in the removal of some or all of the trees on the site.

Based on the tree survey, the site contains 27 trees, 11 of which are ordinance sized (see Table 1). A permit is required from the City of San Jose for removal of ordinance-sized trees. In addition, the City requires replacement of ordinance and non-ordinance sized trees in accordance with established tree replacement ratios.

The project site is located within the boundaries of the Santa Clara Valley Habitat Conservation Plan/Natural Communities Conservation Plan (HCP/NCCP). The HCP/NCCP is a regional partnership between six local partners (the County of Santa Clara, Santa Clara Valley Transportation Authority, Santa Clara Valley Water District, and the Cities of San Jose, Gilroy and Morgan Hill) and three wildlife agencies (the California Department of Fish and Game, the U.S. Fish and Wildlife Service, and the National Marine Fisheries Service). The study area lies primarily within southern Santa Clara County and includes all of the City of San Jose except for the bayland areas. The HCP/NCCP is anticipated to be completed in 2009. The HCP/NCCP Planning Agreement requires that regulatory agencies comment on reportable interim projects that may affect natural communities. The project will not affect the natural communities addressed in the HCP/NCCP and, therefore, does not require conformance with this plan.

Commercial development allowed by the proposed General Plan amendment and rezoning would be conducted in conformance with adopted City plans and policies, resulting in less-than-significant impacts on biological resources.

### **Project- Level Measures to be Considered at Development Level**

- All trees to be removed shall be replaced at the minimum ratios set forth below.

<b>Diameter of Tree to be Removed</b>	<b>Type of Tree to be Removed</b>			<b>Minimum Size of Each Replacement Tree</b>
	<b>Native</b>	<b>Non-Native</b>	<b>Orchard</b>	
18 inches or greater	5:1	4:1	3:1	24-inch box
12-17 inches	3:1	2:1	none	24-inch box
Less than 18 inches	1:1	1:1	none	15-gallon container
x:x = tree replacement to tree loss ratio Note: Trees greater than 18" diameter shall not be removed unless a tree removal permit, or equivalent, has been approved for the removal of such trees.				

In the event the project site does not have sufficient area to accommodate the required tree mitigation, one or more of the following measures will be implemented, to the satisfaction of the City's Environmental Principal Planner, at the development permit stage:

- The size of a 15-gallon replacement tree can be increased to 24-inch box and count as two replacement trees.
  - An alternative site(s) will be identified for additional tree planting. Alternative sites may include local parks or schools or installation of trees on adjacent properties for screening purposes to the satisfaction of the Director of the Department of Planning, Building, and Code Enforcement. Contact Todd Capurso, PRNS Landscape Maintenance Manager, at 277-2733 or [todd.capurso@sanjoseca.gov](mailto:todd.capurso@sanjoseca.gov) for specific park locations in need of trees.
  - Provide a donation of \$300 per mitigation tree to Our City Forest for in-lieu off-site tree planting in the community. These funds will be used for tree planting and maintenance of planted trees for approximately three years. Contact Rhonda Berry, Our City Forest, at (408) 998-7337 x106 to make a donation. A donation receipt for off-site tree planting shall be provided to the Planning Project Manager prior to issuance of a development permit.
- Commercial development shall implement measures to protect trees that are to be retained during construction, in accordance with the City's requirements.

## **E. CULTURAL RESOURCES**

### **Introduction**

The City's General Plan contains policies adopted for the purpose of avoiding or mitigating cultural resource impacts resulting from planned development within the City. All future development allowed by the proposed land use designation would be subject to the cultural resource policies listed in Chapter 4, Goals and Policies, of the City's General Plan, including the following:

- Historic, Archaeological, and Cultural Resources Policy #1: Because historically or archaeologically significant sites, structures and districts are irreplaceable resources, their preservation should be a key consideration in the development review process.
- Historic, Archaeological, and Cultural Resources Policy #8: For proposed development sites identified as archaeologically sensitive, the City should require investigation during the planning process in order to

determine if valuable archaeological remains may be affected by the project and require that appropriate mitigation measures be incorporated into the project design.

- Historic, Archaeological, and Cultural Resources Policy# 9: Recognizing that Native American burials may be encountered at unexpected locations, the City conditions development permits and tentative subdivision maps that upon discovery of such burials during construction, development activity will cease until professional archaeological examination and reburial in an appropriate manner is accomplished.

## Setting

The existing building on the property was constructed in 1970 as offices for Bank of America. Since the building is less than 50 years of age, it is not considered historic. No known historic sites are located on or near the project site. The property is located in an urbanized area that has been extensively disturbed by grading and development; thus, the likelihood of encountering archaeological resources may be low. Additional archaeological investigation would be required at the project development level.

## Impacts and Mitigation

### *Thresholds per CEQA Checklist*

ENVIRONMENTAL IMPACTS	Potentially Significant Issues	Potentially Significant Unless Mitigation Incorporated	Less Than Significant Impact	No Impact	Source(s)
5. CULTURAL RESOURCES. Would the project:					
a) Cause a substantial adverse change in the significance of a historical resource as defined in CEQA 15064.5?				X	1, 2
b) Cause a substantial adverse change in the significance of an archaeological resource pursuant to CEQA 5064.5?			X		1, 2
c) Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature?				X	1, 2
d) Disturb any human remains, including those interred outside of formal cemeteries?				X	1, 2

## Discussion

The existing building on the project site was constructed in 1970. The majority of the site has been disturbed by buildings or pavement. There are no historic or other cultural resources evident on the site. Additional archaeological investigation would be required at the project development level, as outlined below.

Commercial development allowed by the proposed General Plan amendment and rezoning would be conducted in conformance with adopted City plans and policies, resulting in a less-than-significant impact on cultural resources.

### **Project-Level Measures to be Considered at Development Level**

- A qualified archaeologist shall be retained prior to construction/demolition for development of the site to determine the potential for archaeological resources; this shall include an archival search.

## **F. GEOLOGY AND SOILS**

### **Introduction**

The City's General Plan contains policies adopted for the purpose of avoiding or mitigating geologic and soils impacts resulting from planned development within the City. All future development allowed by the proposed land use designation would be subject to the geology and soil policies listed in Chapter 4, Goals and Policies, of the City's General Plan, including the following:

- Soils and Geologic Conditions Policy #1: Development to Evaluate and Mitigate Geologic Hazards
- Soils and Geologic Conditions Policy #6: Development to Mitigate Soils and Geologic Hazards
- Soils and Geologic Conditions Policy #8: Development Should Not Create Geological Hazards on Adjoining Properties
- Earthquake Policy #1: Design and Construct Buildings to Resist Earthquakes
- Earthquake Policy #3: Approval of Development Based on Mitigation of Seismic Hazards
- Earthquake Policy #5: New Development to Evaluate and Mitigate for Seismic Hazards
- Hazards Policy #1: Development Permitted Only Where Danger to Health and Safety of Community Mitigated to Acceptable Level
- Hazards Policy #2: Consider "Acceptable Exposure to Risk Related to Various Land Uses" During Review Process

### **Setting**

The project site is located at approximately 102 feet above mean sea level. The topography of the project area is generally flat, with a gentle slope to the west. The site is underlain by medium-grained alluvium that is typically unconsolidated, moderately permeable fine sand, silt, and clayey silt (AEI, 2007). The nearest surface water is Berryessa Creek, located about 0.5 miles to the south. Based on groundwater data for nearby sites, the depth to groundwater in the area is expected at about 30-36 feet below ground surface. The direction of groundwater flow at the project site is inferred to be to the west.

No geotechnical studies have been completed for the project site. However, the site is not located within a State of California Seismic Hazard Zone, Alquist-Priolo Earthquake Fault zone, or other known seismic hazard areas.

Major active fault systems in the area are the San Andreas, Calaveras, and Hayward, located approximately 20 miles to the west, 7 miles to the east, and 8 miles to the northeast, respectively. The probability of a magnitude 6.7 or greater earthquake occurring in the Bay Area by 2030 is approximately 70% (USGS and California Division of Mines & Geology, 1999). The project site would be subject to strong ground shaking in the event of a large magnitude earthquake on any of the regional fault systems.

## Impacts and Mitigation

### Thresholds per CEQA Checklist

ENVIRONMENTAL IMPACTS	Potentially Significant Issues	Potentially Significant Unless Mitigation Incorporated	Less Than Significant Impact	No Impact	Source(s)
6. GEOLOGY AND SOILS. Would the project:					
a) Expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving:					
i) Rupture of a know earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault? Refer to Division of Mines and Geology Special Publication 42?				X	1, 2
ii) Strong seismic ground shaking?			X		1, 2
iii) Seismic-related ground failure, including liquefaction?			X		1, 2
iv) Landslides?				X	1, 2
b) Result in substantial soil erosion or the loss of topsoil?			X		1, 2
c) Be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction or collapse?			X		1, 2
d) Be located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code (1994), creating substantial risks to life or property?			X		1, 2
e) Have soils incapable of adequately supporting the use of septic tanks or alternative wastewater disposal systems where sewers are not available for the disposal of wastewater?				X	1, 2

## Discussion

Proposed commercial development may be subject to soil hazards, such as weak soils, expansive soils, settlement, or lateral spreading that have not been documented for the site. The project site is not located in an area of high erosion; however, development would include demolition, construction, and grading activities that may result in a temporary increase in erosion. This impact is discussed in **H. Hydrology and Water Quality** of this Initial Study.

Due to its location near several major faults, the project site could be subject to at least one large to severe magnitude earthquake causing considerable ground shaking on the site. The project site would also be subject to periodic ground shaking from small to moderate earthquakes. This could result in potential damage to future commercial development on the site. Seismic impacts would be minimized with development and implementation of a design-level geotechnical study and compliance with the requirements of the California and Uniform Building Codes for Seismic Zone 4.

Commercial development allowed by the proposed General Plan amendment and rezoning would be conducted in conformance with adopted City plans and policies regarding geology/soils and would be reviewed by the City's Geologist, resulting in a less-than-significant impact from these hazards.

## **Project-Level Measures to be Considered at Development Level**

- Prior to the issuance of a Public Works Clearance for future development, a design-level geotechnical analysis would be prepared to the satisfaction of the Director of the Department of Public Works. Future development would be designed and constructed in accordance with the specific recommendations of the design-level geotechnical investigation.

## **G. HAZARDS AND HAZARDOUS MATERIALS**

### **Introduction**

The City's General Plan contains policies adopted for the purpose of avoiding or mitigating hazards resulting from planned development within the City. All future development allowed by the proposed land use designation would be subject to the hazards and hazardous materials policies listed in Chapter 4, Goals and Policies, of the City's General Plan, including the following:

- Hazards Policy #1: Development Permitted Only Where Danger to Health and Safety of Community Mitigated to Acceptable Level
- Hazardous Materials Policy #1: Proper Storage and Disposal of Hazardous Materials
- Hazardous Materials Policy #3: Incorporate Soil and Groundwater Analysis for New Development

### **Setting**

A Phase I Environmental Assessment was prepared for the project site by AEI Consultants (January 2007), and is contained in Appendix B. This assessment included the following: 1) a site survey, 2) interview with the property owner, 3) review of historic maps and aerials, 4) a local agency file search, and 5) a regulatory agency database search.

The project site is currently contains a 13,088 square foot building occupied by the Korean Presbyterian Church. The original building was constructed in 1970 by Bank of America for office uses. The church has occupied the building since 1993. Based on a review of historic sources, the south portion of the property was developed with a residence in the 1960s and 1970s. Prior to this, the property was used for agricultural purposes and the north portion of the site was developed with farm structures.

The site is surrounded by a Chevron gas station to the north across Landess Avenue, residences to the east and south, and a Jack-in-the-Box and Union 76 gas station to the west across Morrill Avenue.

Since the existing building was constructed prior to 1978 when lead paint was banned, sources of lead-based paint may be present. Current regulations of the California Department of Toxic Substances Control (DTSC) require that all peeling and flaking lead-based paint be removed prior to building demolition. In addition, asbestos-containing materials (ACMs) may be present in the existing building on the project site.

The Phase I assessment included a review of agency files and a regulatory database search. The database search included federal, state, and/or local lists of known or suspected contamination sites; known generators/handlers of hazardous waste; known waste treatment, storage, and disposal facilities; and permitted underground storage tank sites. The project site was not identified in any of the databases searched. No recognized environmental conditions were identified by the Phase I assessment; however, the following issues were identified as warranting additional discussion.

- The Unocal gas station at 3096 Landess Avenue is located directly west of the project site across Morrill Avenue, and is hydrologically down-gradient. According to files at the Santa Clara Valley Water District (SCVWD), quarterly groundwater results for August 2006 indicate maximum concentrations of 1,400 micrograms per liter (µg/L) benzene; 96,000 µg/L total petroleum hydrocarbons as gasoline (TPH-g); and 6,500 µg/L methyl tertbutyl ether (MTBE) beneath the site. Groundwater was encountered at 30 to 36 feet below ground surface and flows to the west. Offsite wells have been installed down-gradient to the west to characterize the extent of the groundwater contamination plume. Based on the direction of groundwater flow, contamination is not expected to migrate towards the project site.
- The Chevron gas station at 1490 South Park Victoria Drive is located directly north of the project site across Landess Avenue, and is hydrologically cross-gradient. According to files at SCVWD, quarterly groundwater results for August of 2006 indicated maximum concentrations of 230 µg/L MTBE and 10 µg/L tertiary amyl methyl ether (TAME). No TPH, benzene, toluene, ethylbenzene, or xylenes (BTEX) were detected. Groundwater at this site was also measured as flowing to the west. Based on the direction of groundwater flow, contamination is not expected to migrate towards the project site.
- Due to the age of the existing building on the project site, there is potential that asbestos-containing materials (ACMs) and/or lead-based paint are present.
- The project site was historically used for agricultural purposes and there is the potential that agricultural chemicals were used onsite. The project site is currently paved or covered by improvements that make direct contact with any potential remaining concentrations in the soil unlikely. (If redevelopment of the project site is ever planned for residential use, the owner/user should contact the San Jose Planning Department to determine whether sampling relating to the former agricultural use of the subject property is required.) Sampling may be required for the project to determine if a management plan is required during construction.

The results of the Phase I investigation found no evidence of recognized environmental conditions associated with the subject property or nearby properties and no further investigations for the subject property were recommended.

## Impacts and Mitigation

### *Thresholds per CEQA Checklist*

ENVIRONMENTAL IMPACTS		Potentially Significant Issues	Potentially Significant Unless Mitigation Incorporated	Less Than Significant Impact	No Impact	Source(s)
7. HAZARDS AND HAZARDOUS MATERIALS. Would the project:						
a)	Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?				X	1, 7
b)	Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?			X		1, 7
c)	Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within ¼ mile of an existing or proposed school?			X		1, 7

ENVIRONMENTAL IMPACTS	Potentially Significant Issues	Potentially Significant Unless Mitigation Incorporated	Less Than Significant Impact	No Impact	Source(s)
d) Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment?				X	1, 7
e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project result in a safety hazard for people residing or working in the project area?				X	1, 2
f) For a project within the vicinity of a private airstrip, would the project result in a safety hazard for people residing or working in the project area?				X	1, 2
g) Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?				X	1, 2
h) Expose people or structures to a significant risk of loss, injury or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands?				X	1, 2

## Discussion

The project is not located within an airport land use plan or within two miles of any airport, and would not be subject to hazards associated with airport operations. In addition, the project would not interfere with any emergency response plans or introduce risk of wildland fire. The project is located within ¼ mile of Laneview Elementary School; however, commercial uses allowed by the General Plan amendment and rezoning would not generate hazardous materials or waste that would affect the school.

Based on the results of the Phase I Assessment, including site observation and file/database search, there does not appear to be any hazardous material contamination from on or offsite sources that is impacting the project site. The property was formerly used for agricultural purposes that likely applied pesticides, herbicides, or related chemicals on the site. Although the site is not proposed for future residential uses, development of the site may require additional soil sampling and analysis to determine if pesticide residuals are present on the property.

Proposed commercial uses are not anticipated to use, store, or transport significant amounts of hazardous materials. However, redevelopment of the project site would require demolition of existing structures, which could result in the release of asbestos-containing materials or lead-paint. Demolition of the church would be subject to federal, state, and local requirements regarding handling of hazardous materials.

Commercial development allowed by the proposed General Plan amendment and rezoning would be conducted in conformance with adopted City plans and policies regarding hazards and hazardous materials, reducing impacts to a less-than-significant level.

## Project- Level Measures to be Considered at Development Stage

- Commercial development shall include soil sampling in order to evaluate the presence of possible pesticides prior to construction. Should pesticide levels pose a threat to human health, the contaminated soil shall be remediated in accordance with all local, state, and federal requirements.

- Commercial development shall survey the existing building for asbestos under the National Emissions Standards for Hazardous Air Pollutants (NESHAP) guidelines prior to demolition. All potentially friable asbestos shall be removed prior to building demolition in accordance with NESHAP guidelines.
- Commercial development shall conduct a lead-based paint survey for the existing prior to demolition to evaluate the presence of lead-based paint. All peeling and flaking lead-based paint shall be removed and properly disposed of separately from building debris, in accordance with current Department of Toxic Substances Control policies.

## **H. HYDROLOGY AND WATER QUALITY**

### **Introduction**

The City's General Plan contains policies adopted for the purpose of avoiding or mitigating hydrology and water quality impacts resulting from planned development within the City. All future development allowed by the proposed land use designation would be subject to the hydrologic policies listed in Chapter 4, Goals and Policies, of the City's General Plan, including the following:

- Level of Service Goal #2: For Storm Drainage: Minimize Flooding Potential
- Level of Service Policy #12: Design New Projects to Minimize Runoff and Flooding
- Water Resources Policy #8: City to Establish Policies to Control Runoff and Pollutants
- Water Resources Policy #12: Require Measures to Control Urban Runoff and Maintain Water Quality
- Flooding Policy #7: Provide Adequate Flood Control for New Projects

In addition to the policies of the San Jose General Plan, future development allowed by the proposed land use designation would be subject to the following policies and guidelines:

- National Pollutant Discharge Elimination System (NPDES) Permit
- City of San Jose Post-Construction Hydromodification Management Policy (8-14)
- City of San Jose Post-Construction Urban Runoff Management Policy (6-29)

### **Setting**

The site topography is generally flat, located at 102 feet above mean sea level. The topography of the area slopes gently to the west. The nearest surface water is Berryessa Creek, located about 0.5 miles to the south. The Flood Insurance Rate Maps prepared by the Federal Emergency Management Agency (FEMA) for the project area indicate that the project site is located outside the 100-year floodplain. Based on groundwater data for nearby sites, the direction of groundwater flow is expected to be to the west.

Storm water runoff from the project site currently flows into existing catch basins in the parking lot, which discharge into the City's drainage system.

## Impacts and Mitigation

### Thresholds per CEQA Checklist

ENVIRONMENTAL IMPACTS	Potentially Significant Issues	Potentially Significant Unless Mitigation Incorporated	Less Than Significant Impact	No Impact	Source(s)
8. HYDROLOGY AND WATER QUALITY. Would the project:					
a) Violate any water quality standards or waste discharge requirements?				X	1, 2, 11
b) Substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that there would be a net deficit in aquifer volume or a lowering of the local ground water table level (for example, the production rate of pre-existing nearby wells would drop to a level which would not support existing land uses or planned uses for which permits have been granted)?				X	1, 2
c) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, in a manner which would result in substantial erosion or siltation on- or off-site.				X	1, 2
d) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, or substantially increase the rate or amount of surface runoff in a manner that would result in flooding on- or off-site?			X		1, 2,
e) Create or contribute runoff water which would exceed the capacity of existing or planned storm water drainage systems or provide substantial additional sources of polluted runoff?				X	1, 2
f) Otherwise substantially degrade water quality?			X		1, 2
g) Place housing within a 100-year flood-hazard area as mapped on a federal Flood Hazard Boundary or Flood Insurance Rate Map or other flood hazard delineation map?				X	1, 2
h) Place within a 100-year flood-hazard area structures, which would impede or redirect flood flows?				X	1, 2
i) Expose people or structures to a significant risk of loss, injury or death involving flooding, including flooding as a result of the failure of a levee or dam?				X	1, 2
j) Inundation by seiche, tsunami, or mudflow?				X	1, 2

## Discussion

### Flooding/Drainage

The project site is not located in a floodplain or flood hazard area, and future development would not cause an increase in flood potential. The project site is currently occupied by existing development, including a 13,088 square foot building and pavement. New commercial development on the project site is not expected to substantially increase runoff from the site, since little of the site is undisturbed. Proposed commercial uses would be subject to the legal requirements for installation of appropriate drainage facilities for specific development. Future development would provide all required drainage improvements, including curb and gutter, storm drain inlets, and appropriate connections to the existing storm lines.

## ***Water Quality***

Commercial development of the project site would include construction and grading activities, which may result in a temporary increase in erosion affecting the quality of storm water runoff. This increase in erosion is expected to be minimal, due to the flatness of the site and low erosion potential of the soils. However, surface runoff from proposed development would generate urban pollutants from parking areas that could affect water quality. These pollutants include oil, grease, and trace metals from roadway pavement, as well as sediment from rooftops.

The project site is located within the watershed of Berryessa Creek, which ultimately drains to South San Francisco Bay within the jurisdiction of the San Francisco Regional Water Quality Control Board (RWQCB). San Jose is required to comply with the National Clean Water Act regulations regarding the reduction of non-point source pollutants, as mandated by the National Pollutant Discharge Elimination System (NPDES) and regulated by the RWQCB. The NPDES permits typically establish Waste Discharge Requirements (WDRs), which include discharge prohibitions, effluent limitations, receiving water limitations, and other provisions to protect water quality. The NPDES storm water program requires the implementation of best management practices (BMPs).

In 2001, the RWQCB reissued WDRs under the NPDES program for the discharge of stormwater runoff (NPDES Permit No. CAS0299718, Regional Board Order No. 01-024), through the implementation of the Storm Water Management Plan, which describes a framework for management of stormwater discharges. Order No. 01-124 has been amended to include Provision C.3. concerning new and redevelopment performance standards to address post-construction impacts on stormwater quality.

City of San Jose Policy (6-29) requires all new and redevelopment projects to implement post-construction best management practices (BMPs) and treatment control measures (TCMs) to the maximum extent practicable. This policy also establishes specific design standards for post-construction TCMs for projects that create, add, or replace 10,000 square feet or more of impervious surfaces. In addition, City of San Jose Post-Construction Hydromodification Management Policy (Policy 8-14) requires stormwater discharges from new and redevelopment projects that create or replace 10,000 or more of impervious surfaces to be designed to control project-related runoff, where such runoff is likely to cause increased erosion, siltation, or other impacts to beneficial uses of local rivers, streams, and creeks. This policy establishes specified performance criteria for post-construction hydromodification control measures (HCMs) and identifies projects that are exempt from HCM requirements.

Proposed development allowed by the proposed General Plan amendment and rezoning would be conducted in conformance with adopted City plans and policies related to hydrology and water quality, as well as state and regional regulations, reducing impacts to a less-than-significant level.

### **Project-Level Measures to be Considered at Development Stage**

- Commercial development would include permanent post-construction stormwater treatment measures in compliance with provision C.3 of the City of San Jose's NPDES Permit. Post-construction BMPs and design features could include the following: infiltration basins or trenches, permeable pavements, vegetated filter strips or swales, hydromodification separators, media filtration devices, green roofs, and wet vaults.

## I. LAND USE

### Introduction

The City's General Plan contains policies adopted for the purpose of avoiding or mitigating land use impacts resulting from planned development within the City. All future development allowed by the proposed land use designation would be subject to the land use policies listed in Chapter 4, Goals and Policies, of the City's General Plan, including the following:

- Urban Design Policy #1: Apply Architectural and Site Design Controls
- Urban Design Policy #2: Include Adequate Landscaping in Private Development
- Urban Design Policy #8: Designs to Consider Security, Aesthetics and Public Safety
- Urban Design Policy #10: Limits Building Height
- Commercial Land Use Policy #1: Distribute Commercial Land to Maximize Community Accessibility

In addition to the policies of the San Jose General Plan, future development allowed by the proposed land use designation would be subject to the City's Commercial Design Guidelines.

### Setting

The project is proposed on 0.96 acres of land surrounded by commercial and residential uses. The project site currently contains a 13,088 square foot building occupied by the Korean Presbyterian Church. The original building was constructed in 1970 by Bank of America for office uses. The church has occupied the building since 1993. According to historic records, the south portion of the property was developed with a residence in the 1960s and 1970s. Prior to this, the property was used for agricultural purposes (AEI, 2007).

The site is currently surrounded by a Chevron gas station to the north across Landess Avenue, residences to the east and south, and a Jack-in-the-Box and Union 76 gas station to the west across Morrill Avenue. The project site is designated *Medium Density Residential (8-16 du/ac)* on 0.6 acres and *Medium Low Density Residential (8 du/ac)* on 0.36 acres in the San Jose General Plan. The surrounding area is designated in the General Plan *Neighborhood/Community Commercial* to the west, and *Medium Density Residential* and *Medium Low Density Residential* to the east and south. Property to the north is located within the City of Milpitas.

### Impacts and Mitigation

#### *Thresholds per CEQA Checklist*

ENVIRONMENTAL IMPACTS	Potentially Significant Issues	Potentially Significant Unless Mitigation Incorporated	Less Than Significant Impact	No Impact	Source(s)
9. LAND USE AND PLANNING. Would the project:					
a) Physically divide an established community?				X	1, 2
b) Conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect?			X		1, 3
c) Conflict with any applicable Habitat Conservation Plan or Natural Community Conservation Plan?				X	1

## Discussion

The project proposes to change the San Jose 2020 General Plan Land Use/Transportation Diagram designation from *Medium Density Residential (8-16 du/ac)* on 0.6 acres and *Medium Low Density Residential (8 du/ac)* on 0.36 acres to *Neighborhood/Community Commercial* on the entire site. The project also proposes rezoning to CP (Commercial Pedestrian) to allow demolition of the existing church and construction of a 13,365 square foot, single-story retail center on the site. Land use compatibility and the project's consistency with the City's land use plans and policies are discussed below.

The project site is located within the boundaries of the Santa Clara Valley Habitat Conservation Plan/Natural Communities Conservation Plan (HCP/NCCP). The study area includes all of the City of San Jose except for the bayland areas. The project will not affect any natural communities addressed in the HCP/NCCP and, therefore, does not require conformance with this plan. Refer also to **D. Biological Resources**.

### *Land Use Conflicts*

Land use conflicts can arise from two basic causes: 1) a new development or land use may cause impacts to persons or the physical environment in the vicinity of the project site or elsewhere; or 2) conditions on or near the project site may have impacts on the persons or development introduced onto the site by the new project. (Please refer to **G. Hazards and Hazardous Materials** and **K. Noise** of this document.) Both of these circumstances are aspects of land use compatibility. Potential incompatibility may arise from placing a particular development or land use at an inappropriate location, or from some aspect of the project's design or scope. Depending on the nature of the impacts and its severity, land use conflicts can range from minor irritation and nuisance to potentially significant effects on human health and safety.

The project would result in the development of commercial uses on 0.96 acres of residentially-designated land. The site is currently occupied by a church. The proposed change in land use from residential to commercial could increase the amount of development on the site, though not substantially due to the relatively small size of the property (i.e., less than one acre). The proposed commercial center is one-story in height and proposes approximately the same square footage as currently exists. The commercial development allowed under the *Neighborhood/Community Commercial* designation and CP zoning, which allows small shopping centers intended to serve the local community, would not introduce substantial new hazards, noise, or other nuisances that would adversely affect surrounding commercial operations and residential uses. Implementation of City policy and project-level requirements would further minimize land use conflicts. Surrounding commercial and residential uses have not been identified as posing a hazard to the site, and compliance with local and state regulations would assure that these uses continue to pose no risks to future commercial occupants of the site.

The proposed commercial use is not anticipated to result in significant land use conflicts for the following reasons: 1) commercial uses would be compatible with surrounding commercial and residential uses, 2) commercial development would serve the local community, and 3) development would be subject to the City's design and land use regulations to minimize land use conflicts.

Proposed commercial development would be subject to the City's Commercial Design Guidelines as well as land use policies that would avoid or reduce land use conflicts between future development and existing uses to a less-than-significant level. Additional discussion of the project's consistency with the City's land use policies is provided below.

## ***Consistency with Land Use Plans***

### **San Jose 2020 General Plan**

The City of San Jose 2020 General Plan is an adopted statement of goals and policies for the future character and quality of development in the San Jose Sphere of Influence. The San Jose 2020 General Plan land use/transportation diagram currently designates the project site *Medium Density Residential (8-16 du/ac)* on 0.6 acres and *Medium Low Density Residential (8 du/ac)* on 0.36 acres. The project proposes to change the General Plan land use designation for the site to *Neighborhood/Community Commercial*. The *Neighborhood/Community Commercial* designation allows shopping centers on a neighborhood or community scale. The project also proposes rezoning to CP to allow for demolition of the existing church and construction of a 13,365 square foot, single-story retail center on the site. A summary of the project's consistency with relevant City goals and policies is provided below.

### **Commercial Land Use Policies**

*Commercial Land Use Goal:* Provide a pattern of commercial development which best serves community needs through maximum efficiency and accessibility.

*Commercial Land Use Policy 1.* Commercial land in San Jose should be distributed in a manner that maximizes community accessibility to a variety of retail commercial outlets and services and minimizes the need for automobile travel. New commercial development should be located near existing centers of employment or population or in close proximity to transit facilities and should be designed to encourage pedestrian and bicycle access through techniques such as minimizing building separation from the street, providing safe, accessible, convenient and pleasant pedestrian connections, secure bike storage, etc. Employee intensive uses should be encouraged to locate along multi-modal transit corridors.

*Commercial Land Use Policy 2.* New commercial uses should be located in existing or new shopping centers or in established strip commercial areas. Isolated spot commercial developments and the creation of new strip commercial areas should be discouraged.

**Consistency:** The proposed General Plan amendment and rezoning would allow development of a variety of commercial uses on a currently developed infill site in a commercial and residential area. The amendment and rezoning would allow commercial uses intended to serve local residences, in conformance with the City's policies calling for commercial development that meets the community's needs and maximizes accessibility to a variety of services.

### **Urban Design Policies**

*Urban Design Policy 1.* The City should continue to apply strong architectural and site design controls on all types of development for the protection and development of neighborhood character and for the proper transition between areas with different types of land uses.

*Urban Design Policy 2.* Private development should include adequate landscaped areas.

*Urban Design Policy 22.* Design guidelines adopted by the City Council should be followed in the design of development projects.

**Consistency:** Commercial development permitted by the proposed General Plan amendment and rezoning would conform to the City’s Urban Design Policies to avoid or reduce land use conflicts between future development and existing uses.

## **J. MINERAL RESOURCES**

### **Setting**

The project is located on a disturbed site and does not contain any known or designated mineral resources. In addition, the project property is not located near any designated mineral resource areas.

### **Impacts and Mitigation**

#### ***Thresholds per CEQA Checklist***

ENVIRONMENTAL IMPACTS	Potentially Significant Issues	Potentially Significant Unless Mitigation Incorporated	Less Than Significant Impact	No Impact	Source(s)
10. MINERAL RESOURCES. Would the project:					
a) Result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state?				X	1, 2
b) Result in the loss of availability of a locally-important mineral resource recovery site delineated on a local general plan, specific plan, or other land use plan?				X	1, 2

### **Discussion**

The project would not impact mineral resources of local or regional importance, since none are located on or near the project site.

## **K. NOISE**

### **Introduction**

The City’s General Plan contains policies adopted for the purpose of avoiding or mitigating noise resulting from planned development within the City. All future development allowed by the proposed land use designation would be subject to the noise policies listed in Chapter 4, Goals and Policies, of the City’s General Plan, including the following:

- Noise Policy #1: Short- and Long-Term Noise Objectives
- Noise Policy #8: Use of Outdoor Appliances
- Noise Policy #9: Attenuation of Construction Noise
- Noise Policy #11: Non-Residential Uses to Mitigate Noise on Sensitive Receptors
- Noise Policy #12: Noise Studies for Land Use Proposals
- Urban Design Policy #18: Implement Sound Attenuation in New Development

## Setting

Noise is defined as unwanted or objectionable sound. Sound is comprised of three variables: magnitude, frequency, and duration. Noise intensity is typically measured on the “decibel” scale, which indicates the relative amplitude of a sound. On this scale, noise at one decibel is barely audible, while noise at 120-140 decibels is painful and may cause hearing damage. Noise is typically characterized using the A-weighted sound level or dBA. This scale gives greater weight to the frequencies to which the human ear is most sensitive.

### *Noise Policies and Regulations*

The City’s General Plan Noise Element sets forth specific goals and policies for land use planning. These goals seek to minimize noise impacts on people through reduction techniques and appropriate land use policies. The City’s noise standards are expressed in “day/night noise level” or DNL. The DNL represents the average noise level during a 24-hour period, with a penalty of 10 decibels added to sound occurring between the hours of 10 PM and 7 AM. The specific City policies that pertain to this project include the following:

- Commercial land uses are considered acceptable in noise environments of up to 60 DNL. When noise levels are between 60 and 76 DNL, an acoustical analysis should be made indicating the amount of attenuation necessary to maintain an indoor level of 45 dBA or less. Noise levels exceeding 76 DNL require that new development only be permitted if uses are entirely indoors and building design limits interior levels to 45 DNL or less.
- When located adjacent to existing or planned noise sensitive residential and public/quasi-public land uses, non-residential land use should mitigate noise to meet the 55 DNL guideline at the property line.
- Construction operations are required to use available noise suppression devices and techniques where possible.

### *Existing Conditions*

The noise environment at the project site is generated primarily by traffic on Landess and Morrill Avenues. Noise measurements were taken by Charles M. Salter Associates on March 21, 2008. These consisted of one long-term and four short-term measurements within and surrounding the project site. Based on the field measurements, noise levels at the site were found to range from 65 dB DNL at the residential property line<sup>1</sup> to 74 dB DNL along Landess Avenue. The nearest noise-sensitive receptors are existing residences located south and east of the project site (refer to Figure 3).

## Impacts and Mitigation

### *Thresholds per CEQA Checklist*

ENVIRONMENTAL IMPACTS	Potentially Significant Issues	Potentially Significant Unless Mitigation Incorporated	Less Than Significant Impact	No Impact	Source(s)
11. NOISE. Would the project result in					
a) Exposure of persons to or generation of noise levels in excess of standards established in the local general plan or noise ordinance or applicable standards of other agencies?			X		1, 8
b) Exposure of persons to or generation of excessive ground borne				X	1

<sup>1</sup> Southeast residential property line located approximately 150 feet west of the Morrill Avenue centerline.

ENVIRONMENTAL IMPACTS	Potentially Significant Issues	Potentially Significant Unless Mitigation Incorporated	Less Than Significant Impact	No Impact	Source(s)
vibration or ground borne noise levels?					
c) Substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project?			X		1, 8
d) A substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project?			X		1, 8
e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project expose people residing or working in the project area to excessive noise levels?				X	1, 2
f) For a project within the vicinity of a private airstrip, would the project expose people residing or working in the project area to excessive noise levels?				X	1, 2

## Discussion

### *Long-term Impacts*

The project is a General Plan amendment and rezoning to allow 13,365 square feet of commercial retail uses on the site. This use could introduce operational noise sources, such as loading docks and/or outdoor mechanical equipment. Commercial uses could also introduce noise from traffic to/from the site.

Based on the field measurements, noise levels on the project site currently exceed 60 dBA DNL. Most commercial development would not be impacted by this noise, since it is not typically considered a noise sensitive use (with the exception of some office uses). An acoustical analysis would be required at the development-level to evaluate noise and identify appropriate attenuation measures.

### *Construction Impacts*

Construction of future commercial uses on the project site would temporarily increase noise levels in the immediate area. Noise levels during construction would occur in phases during demolition, grading, paving, and building of structures. Typical average hourly construction noise levels range from 75 dBA to 85 dBA measured at a distance of 100 feet from the source (during busy construction periods). Noise levels in the immediate area would intermittently exceed 60 dBA during the construction period. The site is surrounded by sensitive residential uses to the east and south that may be impacted by construction noise. Development on the site would be subject to the applicable General Plan policies regarding noise, in addition to standard noise abatement measures, which would avoid significant noise impacts during construction.

Proposed commercial development allowed by the proposed General Plan amendment and rezoning would be subject to applicable General Plan policies and existing codes, guidelines and ordinances regulating noise, which would reduce impacts to a less-than-significant level.

### **Project-Level Mitigation to be Considered at Development Stage**

- An acoustical analysis shall be prepared for future design-level commercial development to quantify noise impacts and identify appropriate attenuation measures, if needed (e.g., noise barriers) to meet the City's noise standards.

## **L. POPULATION AND HOUSING**

## Setting

The population of the City of San Jose is 989,496 (California Department of Finance, January 2008). According to the Association of Bay Area Governments (ABAG), the City's population is anticipated to be approximately 1,005,300 by 2010 (ABAG, *Projections 2007*). In 2000, the U.S. Census reported a total of 281,706 housing units in San Jose.

## Impacts and Mitigation

### *Thresholds per CEQA Checklist*

ENVIRONMENTAL IMPACTS	Potentially Significant Issues	Potentially Significant Unless Mitigation Incorporated	Less Than Significant Impact	No Impact	Source(s)
12. POPULATION AND HOUSING. Would the project:					
a) Induce substantial population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)?				X	1
b) Displace substantial numbers of existing housing, necessitating the construction of replacement housing elsewhere?				X	1
c) Displace substantial numbers of people, necessitating the construction of replacement housing elsewhere?				X	1

## Discussion

The project proposes to change the land use designation from residential to commercial. The site is currently occupied by a church. No residential uses are proposed. The proposed General Plan amendment and rezoning would not induce population growth or displace existing housing or persons. However, it would eliminate approximately 0.96 acres of residentially-designated land within the City of San Jose. This represents a less-than-significant effect given the relative abundance of residential lands in the City and the small size (less than one acre) of the project site.

## M. PUBLIC SERVICES

### Introduction

Public services are provided to the community as a whole, usually from a central location or from a defined set of locations. The resource base for delivery of these services, including the physical delivery mechanisms, is financed on a community-wide basis, usually from a unified or integrated financial system. The service delivery agency can be a city, county, service or other special district. Usually, new development will create an incremental increase in the demand for these services; the amount of demand will vary depending on the type of development, the services offered, and the specific characteristics of the development.

The impact of a particular project on a public facility service is generally a fiscal impact. By increasing the demand for a type of service, a project can cause an increase in the cost of providing the service (e.g., hiring more personnel, additional equipment, etc.). This is considered a fiscal, not an environmental, impact. CEQA does not require an analysis of fiscal impacts. CEQA only requires the evaluation of the physical effects on the environment from new or altered facilities needed as a result of increased public service demands (e.g., a new school or fire station).

## Setting

Police and fire protection services are provided to the project site by the City of San Jose Police and Fire Departments. Parks in the area are within the jurisdiction of both the City of San Jose and City of Milpitas. See **N. Recreation** for additional discussion of parks.

**Fire Protection:** The project site is in the service area of the San Jose Fire Department (SJFD). The closest fire station to the project site is Station #23, located at 1771 Via Cinco de Mayo, approximately 1.3 miles south of the project site.

**Police Protection:** The project site is in the service area of the San Jose Police Department (SJPd). The project is within Beat Building Block (BBB) 51 of the SJPd's service area. The most frequent calls for service in BBB 51 for calendar year 2007 were theft, disturbance, and 911.

## Impacts and Mitigation

### *Thresholds per CEQA Checklist*

ENVIRONMENTAL IMPACTS	Potentially Significant Issues	Potentially Significant Unless Mitigation Incorporated	Less Than Significant Impact	No Impact	Source(s)
13. PUBLIC SERVICES. Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities or need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times, or other performance objectives for any of the public services:					
a) Fire protection?			X		1, 2
b) Police protection?			X		1, 2
c) Schools?				X	1
d) Parks?				X	1
e) Other public facilities?				X	1

## Discussion

Proposed commercial uses would result in an incremental increase calls for fire and police protection services. This increase in demand may require additional staffing or other resources, but is not expected to require construction of new police facilities. The commercial uses would not increase the demand for schools, parks, or other services.

The proposed General Plan amendment and rezoning would have a less-than-significant impact on public services.

## N. RECREATION

### Introduction

Residential development is subject to the City of San Jose Parkland Dedication Ordinance (PDO) (Municipal Code Chapter 19.38) and Park Impact Ordinance (PIO). These ordinances require residential developers to dedicate public parkland or pay in-lieu fees, or both, to offset the demand for neighborhood parkland created by housing developments. Since the proposed General Plan amendment does not include any residential uses,

future development would not be subject to these ordinances.

## Setting

The nearest park in the project area is Sinnott Park, located about 1,200 feet north of the project site within the City of Milpitas. The nearest park to the project site within the City of San Jose limits is Berryessa Creek Park, located about one mile to the southeast.

## Impacts and Mitigation

### *Thresholds per CEQA Checklist*

ENVIRONMENTAL IMPACTS	Potentially Significant Issues	Potentially Significant Unless Mitigation Incorporated	Less Than Significant Impact	No Impact	Source(s)
14. RECREATION. Would the project:					
a) Increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated?				X	1
b) Include recreational facilities or require the construction or expansion of recreational facilities, which might have an adverse physical effect on the environment?				X	1

## Discussion

The City has adopted the Parkland Dedication and Park Impact Ordinances that require residential developers to dedicate public parkland or pay in-lieu fees, or both, to offset the demand for neighborhood parkland created by their housing developments. The project consists of a General Plan amendment to convert the site from residential to commercial uses, in addition to a conventional rezoning to CP (Commercial Pedestrian). No residential development proposed and, therefore, the project is not expected to impact recreational services.

## O. TRANSPORTATION/TRAFFIC

### Introduction

The City's General Plan contains policies adopted for the purpose of avoiding or mitigating traffic impacts resulting from planned development within the City. All future development allowed by the proposed land use designation would be subject to the transportation policies listed in Chapter 4, Goals and Policies, of the City's General Plan, including the following:

- Level of Service Policy #5: Maintain Specified Levels of Service (D or better)
- Transportation Policy #3: Provide Right-of-Way Dedication and Improvements
- Transportation Policy #8: Factor Safety for All Modes into Streets and Roadway Design
- Transportation Policy #9: Discourage Through Traffic on Neighborhood Streets
- Transportation Policy #16: Encourage Pedestrian Travel by Providing Pedestrian Facilities

## Setting

The project site is located on the southeast corner of Landess and Morrill Avenues. Landess Avenue is identified in the San Jose Land Use/Transportation Diagram as an arterial; Morrill Avenue is identified as a major collector. Both streets are four-lane facilities with median dividers in the project area. Access is currently provided to the project site from two driveways off Morrill Avenue and two driveways off Landess Avenue.

Sidewalks are provided along both sides of Landess and Morrill Avenues in the project vicinity. Public transit service is provided to the area by the Santa Clara Valley Transportation Authority (VTA). The nearest local bus routes are located along Landess Avenue. The nearest light rail station is the Montague Station, located about a mile west of the project site.

## Impacts and Mitigation

### *Thresholds per CEQA Checklist*

ENVIRONMENTAL IMPACTS	Potentially Significant Issues	Potentially Significant Unless Mitigation Incorporated	Less Than Significant Impact	No Impact	Source(s)
15. TRANSPORTATION/TRAFFIC. Would the project:					
a) Cause an increase in traffic, which is substantial in relation to the existing traffic load and capacity of the street system (for example, result in a substantial increase in either the number of vehicle trips, the volume to capacity ratio on roads, or congestion at intersections)?				X	1, 9
b) Exceed, either individually or cumulatively, a level of service standard established by the county congestion management agency for designated roads or highways?				X	1, 9
c) Result in a change in air traffic patterns, including either an increase in traffic levels or a change in location that results in substantial safety risks?				X	1
d) Substantially increase hazards due to a design feature (for example, sharp curves or dangerous intersections) or incompatible uses (for example, farm equipment)?				X	1
e) Result in inadequate emergency access?				X	1
f) Result in inadequate parking capacity?				X	1
g) Conflict with adopted policies, plans, or programs supporting alternative transportation (for example, bus turnouts, bicycle racks)?				X	1

## Discussion

The project would change the General Plan land use designation from residential to commercial use. The existing use on the site is a church. The proposed 13,365 square foot commercial development would generate approximately 535 daily trips and 11 peak hour trips, based on a rate of 40 trips/1,000 square feet of strip commercial retail (City of San Jose, Interim Guidelines for Traffic Impact Analysis of Land Developments, “Common Vehicular Trip Generation Rates for the San Jose Area,” March 1994).<sup>2</sup>

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<sup>2</sup> Peak hour rate is 2% of daily trips. The trip generation represents a conservative estimate since it does not take into account existing vehicle trips to/from the on-site church.

The City has determined that the proposed General Plan amendment would not result in significant long-term traffic impacts associated with the change in land use (Ebrahim Sohrabi, San Jose Public Works memo, 11/30/07). The project may need to prepare a project-level traffic impact analysis to evaluate traffic operations in the near-term based on the City's level of service policies, although it is unlikely based on the relatively few number of peak hour trips added by the project (see above).

Proposed commercial development allowed by the proposed General Plan amendment and rezoning would be conducted in conformance with adopted City plans and policies, and would not result in significant transportation impacts.

## **P. UTILITIES AND SERVICE SYSTEMS**

### **Introduction**

The City's General Plan contains policies adopted for the purpose of avoiding or mitigating utility and service impacts resulting from planned development within the City. All future development allowed by the proposed land use designation would be subject to the utility and service policies listed in Chapter 4, Goals and Policies, of the City's General Plan, including the following:

- Level of Service Policy #2: Capital and Facility Needs Financed by New Development
- Level of Service Policy #6: Level of Service Standard of "D" for sanitary sewer lines
- Level of Service Policy #7: Monitor and Regulate Growth to Accommodate Sewage at the San Jose/Santa Clara Water Pollution Control Plant
- Level of Service Policy #9: Encourage Use of Water Conservation Programs
- Urban Design Policy #7: Underground Utilities Serving New Development

In addition to the above-listed policies of the General Plan, new development in San Jose is required to comply with programs that mandate the use of water-conserving features and appliances and the City's Integrated Waste Management Program, which minimizes solid waste.

### **Setting**

The project site is located in an urbanized area within the City. Utilities and services are furnished to the project site by the following providers:

- Wastewater Treatment: treatment and disposal provided by the San Jose/Santa Clara Water Pollution Control Plant (WPCP), and lines maintained by the City of San Jose
- Water Service: San Jose Water Company
- Storm Drainage: City of San Jose
- Solid Waste: Various haulers
- Natural Gas & Electricity: PG&E

## Impacts and Mitigation

### Thresholds per CEQA Checklist

ENVIRONMENTAL IMPACTS	Potentially Significant Issues	Potentially Significant Unless Mitigation Incorporated	Less Than Significant Impact	No Impact	Source(s)
UTILITIES AND SERVICE SYSTEMS. Would the project:					
a) Exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board?				X	1, 2
b) Require or result in the construction of new water or wastewater treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?			X		1, 2
c) Require or result in the construction of new storm water drainage facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?			X		1, 2
d) Have sufficient water supplies available to serve the project from existing entitlements and resources, or are new or expanded entitlements needed?				X	1, 2
e) Result in a determination by the wastewater treatment provider, which serves or may serve the project that it has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments?			X		1, 2
f) Be served by a landfill with sufficient permitted capacity to accommodate the project's solid waste disposal needs?			X		1, 2
g) Comply with federal, state, and local statutes and regulations related to solid waste?				X	1, 2

## Discussion

Although it is designated for residential uses, the project site is current occupied by a church. The proposed change in land use from residential to commercial uses may somewhat increase the demand for public services, including sanitary sewer disposal, potable water, and solid waste services. The existing use and service demands are already served by public and private providers. Due to the limited size of the project property and the proposed designation of *Neighborhood/Community Commercial* and rezoning to CP, both intended for small retail centers, the change in land use is not expected to significantly impact public services or utilities.

Please refer to **H. Hydrology/Water Quality** of this Initial Study for discussion of storm drainage facilities and capacity.

## Q. MANDATORY FINDINGS OF SIGNIFICANCE

ENVIRONMENTAL IMPACTS	Potentially Significant Issues	Potentially Significant Unless Mitigation Incorporated	Less Than Significant Impact	No Impact	Source(s)
17. MANDATORY FINDINGS OF SIGNIFICANCE. Does the project:					
a) Have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory?				X	1, 6
b) Have impacts that are individually limited, but cumulatively considerable? ("Cumulatively considerable" means that the incremental effects of a project are considerable when viewed in connection with the effects of the past projects, the effects of other current projects, and the effects of probable future projects.			X		1
c) Have environmental effects that will cause substantial adverse effects on human beings, either directly or indirectly?				X	1

The project would not result in significant impacts associated with the CEQA mandatory findings of significance. Based on the analysis provided in this Initial Study, the proposed General Plan amendment and rezoning would not substantially degrade or reduce wildlife species or habitat, significantly impact historic resources, result in significant cumulative impacts, or cause adverse effects on humans.

## **Chapter 4. References**

### **LEAD AGENCY**

#### **City of San Jose**

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### **PERSONS CONTACTED**

Paulo Hernandez, JPH Consulting  
Anthony Ho, LPMD Architects

### **CHECKLIST SOURCES**

1. CEQA Guidelines and professional expertise of consultant
2. Project review
3. San Jose 2020 General Plan
4. Santa Clara County Important Farmlands Map, 2008
5. BAAQMD CEQA Guidelines, 1999
6. Arborist Report, 2008
7. Phase 1 Environmental Site Assessment by AEI, 2007
8. Noise Assessment, 2008
9. Letter from San Jose Public Works dated 11/30/07

### **BIBLIOGRAPHY**

AEI Consultants, *Phase I Environmental Site Assessment 3102 Landess Avenue and 2148 Morrill Avenue, San Jose, California 95138*, January 9, 2007.

Bay Area Air Quality Management District, *BAAQMD CEQA Guidelines*, 1999.

California Department of Conservation, *Santa Clara County Important Farmlands Map*, 2008.

City of San Jose, *San Jose 2020 General Plan*, as amended through December 2007.

LPMD Architects, Site Maps and Project Data, July 2008.

Morneau, Ray, Arborist, *Certified Arborist's Table 1 Inventory*, April 24, 2008.

Salter, Charles M. Associates, Inc., *Landess and Morrill Mixed-Use Project Environmental Noise Assessment*, July 11, 2008.

**APPENDIX A**  
**ARBORIST REPORT**

**APPENDIX A**  
**ARBORIST REPORT**

**APPENDIX A**  
**ARBORIST REPORT**

**APPENDIX A**  
**ARBORIST REPORT**

# Certified Arborist's "Table 1" Inventory (Pre-Construction)

April 24, 2008

**Project Location:**

Former church  
c/o Landess & Morrill Avenues  
San Jose, California

**Prepared for:**

Anthony Ho

**Client:**

Anthony Ho

**Prepared by:**

Ray Morneau

ISA Certified Arborist #WE-0132A

ASCA Member

## Contents:

- 1.0 Assignment
- 2.0 Executive Summary
- 3.0 Site Map with Tree Numbers Added
- 4.0 Tree Data
  - 4.1 San-Jose-Required "Table 1" Data
  - 4.2 Existing Conditions (Tree Details)
  - 4.3 General Tree Preservation Precepts
  - 4.4 Basic Tree Preservation Plan (TPP)
- 5.0 Certification

## 1.0 Assignment

Anthony Ho has retained me to provide an arborist's pre-construction "Table 1" inventory for the former church site to be redeveloped at the corner of Landess and Morrill Avenues in San Jose.





## 2.0 Executive Summary

The City of San Jose Planning Department requires that a Certified Arborist completes their form "Table 1". By definition in San Jose, a "tree" shall mean any live or dead woody perennial plant characterized by having a main stem or trunk which measures fifty-six inches or more in circumference at a height of twenty-four inches above natural grade. (Per Chapter 13.32 of the San Jose Municipal Code).

Twenty-seven (27) plants were inventoried. Three (3) overhang from adjacent properties (#17, #24, and #27). Five (5) are municipal street trees (#2, #3, #10, #11, and #13). Twelve (12) trees are ordinance-size by cited definition (#1, #5, #6, #8, #9, #12, #16, #18, #19, #20, #22, and #24). It would be a challenge to demo the existing features from this site and keep any of those twelve. Another fifteen (15) measure smaller than 56-inch circumference.

## 3.0 Site Map with Tree Numbers Added (non-surveyed locations are approximate)





## 4.0 Tree Data

## 4.1 San-Jose-Required "Table 1" Data

DATE: April 24, 2008

PROJECT: Landess at Morrill, San Jose, CA

Table 1 (City of San Jose standard) Tree Summary					
Tag #	Scientific Name	Name, Common	Size (Diameter)	Size (Circumference)	Condition
1	<i>Pinus radiata</i>	Pine, Monterey	26.3"	83"	2
2	<i>Magnolia grandiflora</i>	Magnolia, Southern	1.4" @ 6"	4" @ 6"	2
3	<i>Magnolia grandiflora</i>	Magnolia, Southern	7.3" @ 6"	26" @ 6"	3
4	<i>Pyrus calleryana</i> 'Bradford'	Pear, Bradford	14.6"	46"	3
5	<i>Washingtonia robusta</i>	Palm, Mexican Fan	28.8"	91"	4
6	<i>Washingtonia robusta</i>	Palm, Mexican Fan	27.2"	86"	4
7	<i>Prunus cerasifera</i>	Cherry Plum, Purple	5.2" @ 12"	16" @ 12"	3
8	<i>Washingtonia robusta</i>	Palm, Mexican Fan	25.8"	79"	4
9	<i>Cedrus deodara</i>	Cedar, Deodar	22.6"	72"	4
10	<i>Magnolia grandiflora</i>	Magnolia, Southern	12.9"	41"	4
11	<i>Magnolia grandiflora</i>	Magnolia, Southern	13.6"	43"	4
12	<i>Cedrus deodara</i>	Cedar, Deodar	21.2"	66"	4
13	<i>Magnolia grandiflora</i>	Magnolia, Southern	16.7"	53"	4
14	<i>Magnolia grandiflora</i>	Magnolia, Southern	12.1"	38"	4
15	<i>Magnolia grandiflora</i>	Magnolia, Southern	3.7"	12"	4
16	<i>Washingtonia robusta</i>	Palm, Mexican Fan	25.8"	78"	4
17	<i>Ulmus parvifolia</i>	Elm, Chinese	~16"	~48"	3
18	<i>Pinus radiata</i>	Pine, Monterey	23.9"	80"	1
19	<i>Pinus radiata</i>	Pine, Monterey	24.7"	78"	2
20	<i>Pinus radiata</i>	Pine, Monterey	18.5"	59"	1
21	<i>Prunus communus</i>	Plum, Common	11.3"	37"	1
22	<i>Pinus radiata</i>	Pine, Monterey	16.8"	56"	1
23	<i>Ligustrum lucidum</i>	Privet, Glossy	9.8" @ 12"	31" @ 12"	1
24	<i>Morus alba</i>	Mulberry, Fruitless	~24"	~73"	3
25	<i>Quercus ilex</i>	Oak, Holly	8.6"	28"	3
26	<i>Quercus ilex</i>	Oak, Holly	7.3"	24"	3
27	<i>Cupressocyparis leylandii</i>	Cypress, Leyland	obscured	obscured across fence	2

Notes: Circumference/diameter at two feet above existing grade.  
 Numbers correspond to tree locations provided in Figure X.  
 Ordinance sized trees (56 inches or greater in circumference) are shown in **bold**.  
 Condition is judged on a scale of 1 to 5 with 1 representing very poor and 5 representing excellent.

## 4.2 Existing Conditions (Tree Details – Inventory Tree Data)



Tree #	Botanical Name / Name, Common	Circumf. @ 24"	Diameter @ 24"	Crown Radius	Height	% Vigor	% Structure	% Overall	Suitability for Preservation	Age / Longevity	Additional Comments
1	<i>Pinus radiata</i> / Pine, Monterey	83"	26.3"	18'	50'	55%	40%	45% Poor	Low	Over- mature	Deadwood to 3-inch diameter. Foliage crown thin in top, center. Moderate endweights.
2	<i>Magnolia grandiflora</i> / Magnolia, Southern	4" @ 6"	1.4" @ 6"	2'	7'	33%	45%	38% Poor	Low	Young	Still staked in 3'X3' sidewalk cutout. Very weak, not watered. For size, trunk is very thin and poorly tapered.
3	<i>Magnolia grandiflora</i> / Magnolia, Southern	26" @ 6"	7.3" @ 6"	4'	16'	40%	30%	35% Poor	Mod- erate	Semi- mature	In 3'X3' sidewalk cutout. Three trunks from near ground level.
4	<i>Pyrus calleryana</i> 'Bradford' / Pear, 'Bradford'	46"	14.6"	16'	35'	70%	25%	35% Poor	Low	Mature	In dirt planter, 5-ft to existing parking lot curb. Typical Bradford structure problems. History of breakage.
5	<i>Washingtonia robusta</i> / Palm, Mexican Fan	91"	28.8"	8'	50'	75%	90%	80% Good	Mod- erate	Mature	In dirt planter, 5-ft to existing parking lot curb. Clear Brown Trunk (CBT) = 38-ft.
6	<i>Washingtonia robusta</i> / Palm, Mexican Fan	86"	27.2"	8'	19'	75%	90%	80% Good	Mod- erate	Mature	In dirt planter, 5-ft to existing parking lot curb. Clear Brown Trunk (CBT) = 12-ft.
7	<i>Prunus cerasifera</i> / Cherry Plum, Purple	16" @ 12"	5.2" @ 12"	7'	17'	55%	30%	40% Poor	Mod- erate	Semi- mature	In dirt planter, 5-ft to existing parking lot curb. Embedded bark ("V") crotch at 1.5-ft (poor attachment).
8	<i>Washingtonia robusta</i> / Palm, Mexican Fan	79"	25.8"	8'	20'	75%	90%	80% Good	Mod- erate	Mature	In dirt planter, 5-ft to existing parking lot curb. Clear Brown Trunk (CBT) = 12-ft.
9	<i>Cedrus deodara</i> / Cedar, Deodar	72"	22.6"	25'	58'	80%	80%	80% Good	Mod- erate	Mature	In wood chip play yard, 8-ft to existing curb, 15-ft to existing church wall.
10	<i>Magnolia grandiflora</i> / Magnolia, Southern	41"	12.9"	12'	30'	75%	75%	75% Good	Mod- erate	Mature	In 3'X3' sidewalk cutout. Pruned to be very upright. Moderate endweights.
11	<i>Magnolia grandiflora</i> / Magnolia, Southern	43"	13.6"	15'	39'	75%	75%	75% Good	Mod- erate	Mature	In 3'X3' sidewalk cutout. Pruned to be very upright. Moderate endweights.
12	<i>Cedrus deodara</i> / Cedar, Deodar	66"	21.2"	17'	40'	80%	80%	80% Good	Mod- erate	Mature	In front lawn, 12-ft. to sidewalk. Top lost (pruned? broken?)
13	<i>Magnolia grandiflora</i> / Magnolia, Southern	53"	16.7"	20'	40'	75%	68%	69% Fair	Mod- erate	Mature	In 3'X3' sidewalk cutout. Co-dominant leaders at 5-ft.
14	<i>Magnolia grandiflora</i> / Magnolia, Southern	38"	12.1"	12'	37'	70%	66%	68% Fair	Mod- erate	Mature	In 3'X3' sidewalk cutout. Pruned to be very upright. Moderate endweights.
15	<i>Magnolia grandiflora</i> / Magnolia, Southern	12"	3.7"	4'	13'	70%	80%	75% Good	Mod- erate	Young	Back of sidewalk 3-ft.
16	<i>Washingtonia robusta</i> / Palm, Mexican Fan	78"	25.8"	8'	19'	75%	90%	80% Good	Mod- erate	Mature	CBT = 12-ft.
17	<i>Ulmus parvifolia</i> / Elm, Chinese	~48"	~16"	23'	50'	70%	50%	60% Fair	Mod- erate	Mature	Just inside of neighbor's patio fence; 3-ft to parking lot curb. History of severe pruning.
18	<i>Pinus radiata</i> / Pine, Monterey	80"	23.9"	20'	60'	20%	20%	20% V Pr	Very Low	Over- mature	In parking lot 4-ft. planter strip. Severely declining; very thin foliage crown. Trunk leans 15° over parking lot.



Tree #	Botanical Name / Name, Common	Circumf. @ 24"	Diameter @ 24"	Crown Radius	Height	% Vigor	% Structure	% Overall	Suitability for Preservation	Age / Longevity	Additional Comments
19	<i>Pinus radiata</i> / Pine. Monterey	78"	24.7"	25'	40'	65%	40%	49% Poor	Low	Over- mature	In narrow planter strip beside property line fence, curb jutting out 3-ft. to accommodate root flare. Topped under power lines.
20	<i>Pinus radiata</i> / Pine. Monterey	59"	18.5"	16'	40'	15%	15%	15% V Pr	Very Low	Over- mature	In narrow planter strip beside property line fence. Line clearance pruned. Deadwood to 6-inch diameter.
21	<i>Prunus communis</i> / Plum	37"	11.3"	12'	24'	23%	20%	21% V Pr	Very Low	Over- mature	Against property line fence, 8-ft. back of drive aisle curb. Misshapen with many crowded upright stems and tip dieback.
22	<i>Pinus radiata</i> / Pine. Monterey	56"	16.8"	16'	35'	1%	1%	01% V Pr	Very Low	Over- mature	Trunk leans 40° to west over existing parking stall.
23	<i>Ligustrum lucidum</i> / Privet, Glossy	31" @ 12"	9.8" @ 12"	6'	15'	65%	15%	33% Poor	Very Low	Mature	Property line fence at 2-ft. Growing between parking lot curb and retaining wall. Multi-stemmed from ground level.
24	<i>Morus alba</i> / Mulberry	~73"	~24"	18'	35'	72%	20%	35% Poor	Mod- erate	Over- mature	Trunk located about 20-ft. inside of neighbor's property, but overhangs our site 6-ft. History of severe pruning by neighbor to 8-ft. stubs.
25	<i>Quercus ilex</i> / Oak, Holly	28"	8.6"	8'	28'	70%	40%	55% Fair	Mod- erate	Mature	Parking lot curb at 1-ft.; in 4-ft wide planter against property line cinder block wall. Previously topped at 10-ft (poorer structure).
26	<i>Quercus ilex</i> / Oak, Holly	24"	7.3"	12'	38'	65%	75%	69% Fair	Mod- erate	Mature	Parking lot curb at 1-ft.; in 4-ft wide planter against property line cinder block wall. Lanky.
27	<i>Cupressocyparis leylandii</i> / Cypress, Leyland	see com	see com	10'	25'	55%	40%	45% Poor	Low	Mature	Bleeding cankers on trunk (Seridium canker?). 1-ft across concrete wall in neighbor's yard. Appears to be multi-stemmed from ground level (but obscured).

### 4.3 General Tree Preservation Precepts

Books have been written on this topic – but if I had to choose three basic concepts to highlight:

- Start early to preserve trees that are assets, but preserve whole trees (including roots), not merely trunks.
- The owner(s) must have the entire team committed to preserving each tree everyday (from the designer to the project manager to the guys with the nail bags).
- Minimize impacts, or the tree will require you to mitigate, lest you destroy its rootlets or its structure or its environment



#### 4.4 Basic Tree Preservation Plan (TPP)

More details can be drafted, if the project team decides to preserve any of these trees – in spite of the substantial challenges present here, because successful preservation would not come easy.

Some basic principles of tree preservation include:

- Site-specific Tree Protection Measures (TPMs) must be drafted by the Project Arborist.
- Plan for tree preservation in advance – planning to preserve whole trees, including roots (preserve large portions of root zone, not merely some of the foliage crown).
- Choose the specific trees that the project team wants to preserve.
- Establish a sufficiently-large tree protection zone (TPZ) for each tree or groupings of trees. Ideally the TPZ should extend out to the drip line at a minimum.
- When calculating TPZs, note that most trees have widespread, very shallow root systems.
- The main TPM is exclusionary Tree Protection Fencing (TPF).
- Soil buffering supplements TPF by adding mulch over root zone soil. This helps to avoid compacting the soil, which eliminates needed oxygen and damages roots.
- Monthly deep root watering will promote optimal tree health.
- Plan the work flow of the project, including but is not limited to:
  - Routes where workers will walk around the site,
  - Where vehicles and equipment will drive and park,
  - Storage area(s) for materials,
  - Where utilities will be routed (ideally, avoid trenching across any root zone),
  - Tool wash out area for all (including cement trucks, painters, plasters, etc.), and
  - Location of debris boxes and/or collection areas.
- The use of tree-sensitive structural and hardscape design has a positive impact on the future health and value of the trees preserved.



## 5.0 Certification

I certify that all the statements of fact in this report are true, complete, and correct to the best of my knowledge, ability, and belief, and are made in good faith.

Respectfully submitted,

A handwritten signature in blue ink that reads "Raymond J. Morneau". The signature is written in a cursive style with a large, sweeping 'M' and a checkmark-like flourish at the end.

Raymond J. Morneau  
ISA Certified Arborist #WE-0132A  
ASCA Member

**APPENDIX B**  
**PHASE I ASSESSMENT**

January 9, 2007

**PHASE I  
ENVIRONMENTAL SITE ASSESSMENT**

3102 Landess Avenue and 2148 Morrill Avenue  
San Jose, California 95138

AEI Project No. 263622

Prepared For



500 E. Calaveras Blvd, #329  
Milpitas, CA 95035

Prepared By

**AEI CONSULTANTS**  
2500 Camino Diablo, Suite 200  
Walnut Creek, CA 94597  
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**AEI**

## EXECUTIVE SUMMARY

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AEI Consultants (AEI) was retained by CFC Capital Group to conduct a Phase I Environmental Site Assessment (ESA), in conformance with the scope and limitations of ASTM Standard Practice E1527-05 and the Environmental Protection Agency Standards and Practices for All Appropriate Inquiries (40 CFR Part 312) for the property located at 3102 Landess Avenue and 2148 Morrill Avenue in the City of San Jose, Santa Clara County, California. Any exceptions to, or deletions from, this practice are described in Section 1.2 of this report.

### ***Property Description***

The subject property is located on the southeast corner of Landess Avenue and Morrill Avenue in a mixed commercial and residential area of San Jose. The property consists of two parcels totaling approximately 38,768 square feet and is improved with a two-story building totaling approximately 13,088 square feet. The building is currently occupied by the San Jose Korean Presbyterian Church. In addition to the subject property building, the property is improved with asphalt-paved parking areas and associated landscaping.

According to historical sources, the current subject property building was constructed in 1970 by Bank of America for use as banking offices, and has been occupied by the San Jose Korean Presbyterian Church since 1993. The south portion of the property at 2148 Morrill Avenue was developed with a residence in the 1960s and 1970s. Prior to this, the property was used for agricultural purposes and the north portion had been developed with farm structures as seen in the 1939 aerial photograph. Environmental concerns associated with the former agricultural use of the subject property are discussed below.

The immediately surrounding properties consist of a Chevron Service Station (1490 South Park Victoria Drive) to the north beyond Landess Avenue, residences to the east and south, and Jack in the Box (2195 Morill Avenue) and a 76 Service Station (3096 Landess Avenue) to the west beyond Morill Avenue. The Chevron Service Station and 76 Service Station are listed on the regulatory database as LUST sites, and are further discussed below and in Section 5.3.

Based upon groundwater data for nearby sites, the direction of groundwater flow beneath the subject property is inferred to be to the west, and present at a depth of 30 to 36 feet below ground surface (bgs).

### ***Findings***

Recognized environmental conditions (RECs) are defined by the ASTM Standard Practice E1527-05 as the presence or likely presence of any hazardous substances or petroleum products on a property under conditions that indicate an existing release, a past release, or a material threat of a release of any hazardous substances or petroleum products into structures on the property or into the ground, groundwater, or surface water of the property. AEI's investigation has revealed the following recognized environmental conditions associated with the subject property or nearby properties:

- No on-site recognized environmental conditions were identified during the course of this investigation.

Historical recognized environmental conditions (HRECs) are defined by the ASTM Standard Practice E1527-05 as an environmental condition which in the past would have been considered a recognized environmental condition, but which may or may not be considered a recognized environmental condition currently. AEI's investigation has revealed the following historical recognized environmental conditions associated with the subject property or nearby properties:

- No on-site historical recognized environmental conditions were identified during the course of this investigation.

Environmental issues include environmental concerns identified by AEI that warrant discussion but do not qualify as recognized environmental conditions, as defined by the ASTM Standard Practice E1527-05. AEI's investigation has revealed the following environmental issues associated with the subject property or nearby properties:

- The Unocal gas station at 3096 Landess Avenue is located adjacent to the west beyond Morrill Avenue (hydrologically down-gradient). According to files reviewed at the Santa Clara Valley Water District (SCVWD) website, quarterly groundwater results for August of 2006 indicated maximum concentrations of 1,400 micrograms per liter ( $\mu\text{g/L}$ ) benzene; 96,000  $\mu\text{g/L}$  total petroleum hydrocarbons as gasoline (TPH-g); and 6,500  $\mu\text{g/L}$  methyl tert-butyl ether (MTBE) beneath the site. Groundwater was encountered at 30 to 36 feet bgs and flows to the west. Offsite wells have been installed down-gradient to the west to characterize the extent of the groundwater contamination plume. Based on the direction of groundwater flow, contamination is not expected to migrate towards the subject property and is therefore not expected to represent a significant environmental concern.
- The Chevron gas station at 1490 South Park Victoria Drive is located adjacent to the north beyond Landess Avenue (hydrologically cross-gradient). According to files reviewed at the SCVWD, quarterly groundwater results for August of 2006 indicated maximum concentrations of 230  $\mu\text{g/L}$  MTBE and 10  $\mu\text{g/L}$  tertiary amyl methyl ether (TAME). No TPH, benzene, toluene, ethylbenzene, or xylenes (BTEX) were detected. Groundwater at this site was also measured as flowing to the west. Based on the direction of groundwater flow, contamination is not expected to migrate towards the subject property and is therefore not expected to represent a significant environmental concern.
- Due to the age of the subject property building, there is a potential that asbestos-containing materials (ACMs) and/or lead-based paint are present. All suspect ACMs and painted surfaces were observed in good to fair condition and are not expected to pose a health and safety concern to the occupants of the subject property at this time.
- The subject property was historically used for agricultural purposes. There is a potential that agricultural chemicals, such as pesticides, herbicides and fertilizers, were used onsite. The entire area of the subject property is either paved over or covered by improvements that make direct contact with any potential remaining concentrations in the soil unlikely. If

redevelopment of the subject property is planned for residential use, the owner/user of the report should contact the local planning department to determine whether sampling relating to the former agricultural use of the subject property is required.

***Conclusions, Opinions, and Recommendations***

AEI's investigation has revealed no evidence of recognized environmental conditions associated with the subject property or nearby properties. AEI recommends no further investigations for the subject property at this time.

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- 1** SITE LOCATION MAP
- 2** SITE PLAN
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## **APPENDICES**

- A** PROPERTY PHOTOGRAPHS
- B** REGULATORY DATABASE
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## 1.0 INTRODUCTION

---

This report documents the methods and findings of the Phase I Environmental Site Assessment (ESA) performed in conformance with the scope and limitations of ASTM Standard Practice E1527-05 and the Environmental Protection Agency Standards and Practices for All Appropriate Inquiries (40 CFR Part 312) for the property located at 3102 Landess Avenue and 2148 Morrill Avenue in the City of San Jose, Santa Clara County, California (Figure 1: Site Location Map, Figure 2: Site Map, and Appendix A: Property Photographs).

### 1.1 Scope of Work

The purpose of the Phase I Environmental Site Assessment is to identify potential environmental liabilities associated with the presence of hazardous materials, their use, storage, and disposal at and in the vicinity of the subject property, as well as regulatory non-compliance that may have occurred at the subject property. Property assessment activities focused on: 1) a review of federal, state, tribal and local databases that identify and describe underground fuel tank sites, leaking underground fuel tank sites, hazardous waste generation sites, and hazardous waste storage and disposal facility sites within the ASTM approximate minimum search distance; 2) a property and surrounding site reconnaissance, and interviews with the past and present owners and current occupants and operators to identify potential environmental contamination; and 3) a review of historical sources to help ascertain previous land use at the site and in the surrounding area.

The goal of AEI Consultants in conducting the environmental site assessment was to identify the presence or likely presence of any hazardous substances or petroleum products on the property that may indicate an existing release, a past release, or a material threat of a release of any hazardous substance or petroleum product into the soil, groundwater, or surface water of the property.

By signing this report, the senior author declares that, to the best of his or her professional knowledge and belief, he or she meets the definition of *Environmental Professional* as defined in §312.10 of 40 CFR Part 312.

The senior author has the specific qualifications based on education, training, and experience to assess a property of the nature, history and setting of the subject property. The senior author has developed and performed the all appropriate inquiries in conformance with the standards and practices set forth in 40CFR Part 312.

### 1.2 Significant Assumptions

The following assumptions are made by AEI Consultants in this report. AEI Consultants relied on information derived from secondary sources including governmental agencies, the client, designated representatives of the client, property contact, property owner, property owner representatives, computer databases, and personal interviews. Except as set forth in this report, AEI Consultants has made no independent investigation as to the accuracy and completeness of

the information derived from secondary sources including government agencies, the client, designated representatives of the client, property contact, property owner, property owner representatives, computer databases, or personal interviews and has assumed that such information is accurate and complete. AEI Consultants assumes information provided by or obtained from governmental agencies including information obtained from government websites is accurate and complete. Groundwater flow and depth to groundwater, unless otherwise specified by on-site well data, or well data from adjacent sites are assumed based on contours depicted on the United States Geological Survey topographic maps. AEI Consultants assumes the property has been correctly and accurately identified by the client, designated representative of the client, property contact, property owner, and property owner's representatives.

### **1.3 Limitations**

Property conditions, as well as local, state, tribal and federal regulations can change significantly over time. Therefore, the recommendations and conclusions presented as a result of this study apply strictly to the environmental regulations and property conditions existing at the time the study was performed. Available information has been analyzed using currently accepted assessment techniques and it is believed that the inferences made are reasonably representative of the property. AEI Consultants makes no warranty, expressed or implied, except that the services have been performed in accordance with generally accepted environmental property assessment practices applicable at the time and location of the study.

Considerations identified by ASTM as beyond the scope of a Phase I ESA that may affect business environmental risk at a given property include the following: asbestos-containing materials, radon, lead-based paint, lead in drinking water, wetlands, regulatory compliance, cultural and historic resources, industrial hygiene, health and safety, ecological resources, endangered species, indoor air quality, mold, vapor intrusion, and high voltage lines. These environmental issues or conditions may warrant assessment based on the type of the property transaction; however, they are considered non-scope issues under ASTM Standard Practice E1527-05.

If requested by the client, these non-scope issues are discussed in Section 6.2. Otherwise, the purpose of this investigation is solely to satisfy one of the requirements for qualification of the innocent landowner defense, contiguous property owner or bona fide prospective purchaser under the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA). ASTM Standard Practice E1527-05 and the EPA Standards and Practices for All Appropriate Inquiries (40 CFR Part 312) constitute the "all appropriate inquiry into the previous ownership and uses of the property consistent with good commercial or customary practice" as defined in:

- 1) 42 U.S.C § 9601(35)(B), referenced in the ASTM Standard Practice E1527-05.
- 2) Sections 101(35)(B) (ii) and (iii) of CERCLA and referenced in the EPA Standards and Practices for All Appropriate Inquiries (40 CFR Part 312).

3) 42 U.S.C. 9601(40) and 42 U.S.C. 9607(q).

The Phase I Environmental Site Assessment is not, and should not be construed as, a warranty or guarantee about the presence or absence of environmental contaminants that may affect the property. Neither is the assessment intended to assure clear title to the property in question. The sole purpose of investigation into property title records is to ascertain a historical basis of prior land use. All findings, conclusions, and recommendations stated in this report are based upon facts, circumstances, and industry-accepted procedures for such services as they existed at the time this report was prepared (i.e., federal, state, and local laws, rules, regulations, market conditions, economic conditions, political climate, and other applicable matters). All findings, conclusions, and recommendations stated in this report are based on the data and information provided, and observations and conditions that existed on the date and time of the property visit. Responses received from local, state, or federal agencies or other secondary sources of information after the issuance of this report may change certain facts, findings, conclusions, or circumstances to the report. A change in any fact, circumstance, or industry-accepted procedure upon which this report was based may adversely affect the findings, conclusions, and recommendations expressed in this report.

#### **1.4 Data Gap and Data Failure**

According to ASTM E1527-05, data gaps occur when the Environmental Professional is unable to obtain information required, despite good faith efforts to gather such information.

Data failure is one type of data gap. According to ASTM E1527-05 “data failure occurs when all of the standard historical sources that are reasonably ascertainable and likely to be useful have been reviewed and yet the objectives have not been met”. Pursuant to ASTM Standards, historical sources are required to document property use back to the property’s first developed use or back to 1940, whichever is earlier.

The following data gaps were identified during the course of this investigation.

- Historical sources did not go back to the subject property’s first development and is considered data failure. However, based on the former agricultural use of the property back to 1939, this data failure is not expected to significantly alter the findings of this report.
- Information about past owners, operations or occupants was not reasonably ascertainable and constitutes a data gap. Based on the nature of use of the subject property and the quality of data obtained from aerial photographs and building permits, this data gap is not expected to represent a concern.

## **1.5 Reliance**

This investigation was prepared for the sole use and benefit of CFC Capital Group. Neither this report, nor any of the information contained herein shall be used or relied upon for any purpose by any person or entity other than CFC Capital Group.

## **2.0 SITE AND VICINITY DESCRIPTION**

---

### **2.1 Site Location and Description**

The subject property is located on the southeast corner of Landess Avenue and Morrill Avenue in San Jose. The property consists of two parcels totaling approximately 38,768 square feet and is improved with a two-story building totaling approximately 13,088 square feet. The building is currently occupied by the San Jose Korean Presbyterian Church. In addition to the subject property building, the property is improved with asphalt-paved parking areas and associated landscaping.

The Assessor's Parcel Numbers (APNs) for the subject property are 092-20-139 and 092-20-008. Heating and cooling systems on the subject property are fueled by natural gas and electricity provided by Pacific Gas & Electric. Potable water and sewage disposal are provided by municipal services.

Refer to Figure 1: Site Location Map, Figure 2: Site Map, and Appendix A: Property Photographs for site location.

### **2.2 Site and Vicinity Characteristics**

The subject property is located in a mixed commercial and residential area of San Jose. The immediately surrounding properties consist of a Chevron Service Station (1490 South Park Victoria Drive) to the north beyond Landess Avenue, residences to the east and south, and Jack in the Box (2195 Morill Avenue) and a 76 Service Station (3096 Landess Avenue) to the west beyond Morill Avenue.

The Chevron Service Station and 76 Service Station are listed on the regulatory database as LUST sites, and are further discussed in Section 5.3.

### **2.3 Geology and Hydrogeology**

According to information obtained from the U.S. Geological Survey (USGS), the area surrounding the subject property is underlain by medium-grained alluvium. This soil type has been described as unconsolidated, moderately sorted, moderately permeable fine sand, silt and clayey silt with occasional thin beds of coarse sand.

Based on a review of the USGS Calaveras Reservoir Quadrangle Topographic Map, the subject property is situated approximately 102 feet above mean sea level, and the local topography is sloped gently to the west. The nearest surface water is Berryessa Creek, located approximately 0.5 mile to the south. Based upon groundwater data for nearby sites, the direction of groundwater flow beneath the subject property is inferred to be to the west, and the depth to groundwater in the vicinity of the subject property is expected to be encountered at 30 to 36 feet below ground surface (bgs).

### 3.0 HISTORICAL REVIEW OF SITE AND VICINITY

---

According to historical sources, the current subject property building was constructed in 1970 by Bank of America for use as banking offices, and has been occupied by the San Jose Korean Presbyterian Church since 1993. The south portion of the property at 2148 Morrill Avenue was developed with a residence in the 1960s and 1970s. Prior to this, the property was used for agricultural purposes and the north portion had been developed with farm structures as seen in the 1939 aerial photograph. There is a potential that agricultural chemicals, such as pesticides, herbicides and fertilizers, were used onsite. The entire area of the subject property is either paved over or covered by improvements that make direct contact with any potential remaining concentrations in the soil unlikely. If redevelopment of the subject property is planned for residential use, the owner/user of the report should contact the local planning department to determine whether sampling relating to the former agricultural use of the subject property is required.

#### 3.1 Aerial Photograph Review

On January 5, 2007, AEI Consultants reviewed aerial photographs of the subject property and surrounding area. Aerial photographs were reviewed for the following years:

Date: 1939  
Scale: 1"=555'

Date: 1982  
Scale: 1"=690'

Date: 1956  
Scale: 1"=555'

Date: 1993  
Scale: 1"=666'

Date: 1965  
Scale: 1"=333'

Date: 1998  
Scale: 1"=666'

In the 1939 aerial photograph, the subject property is developed agriculturally with farm structures on the north portion. To the north are farm structures, and the remaining surrounding properties are developed with agriculture.

In the 1956 aerial photograph, the structures on the north portion of the subject property have been removed. The remaining surrounding properties appear relatively unchanged.

In the 1965 aerial photograph, the north portion of the subject property is vacant with a dirt road traversing it, and a residence has been constructed on the south portion at 2148 Morrill Avenue. Tract homes have been constructed to the south and southeast, and farm structures remain to the north. The remaining surrounding properties are vacant.

In the 1982 aerial photograph, the residence at 2148 Morrill Avenue has been removed and the subject property is developed as it is today. Gas stations have been constructed to the north beyond Landess Avenue and to the west beyond Morrill Avenue. Residences are developed to the south and east.

No significant changes were noted in the 1993 and 1998 aerial photograph.

If available, high-quality copies of reviewed aerial photographs are included as Figure 3.

### **3.2 Regulatory Agencies**

Local and state agencies, such as environmental health departments, fire prevention bureaus, and building and planning departments are contacted to identify any current or previous reports of hazardous materials use, storage, and/or unauthorized releases that may have impacted the subject property. In addition, information pertaining to Activity and Use Limitations (AULs), defined as legal or physical restrictions, or limitations on the use of, or access to, a site or facility, is requested. Specifically AULs are comprised of engineering controls (EC) and institutional controls (IC).

*Engineering Controls* are defined as physical modifications to a site or facility to reduce or eliminate the potential for exposure to hazardous substances or petroleum products in the soil or ground water on the property. *Institutional Controls* are defined as a legal or administrative restriction on the use of, or access to, a site or facility to 1) reduce or eliminate the potential for exposure to hazardous substances or petroleum products in the soil or ground water on the property, or 2) to prevent activities that could interfere with the effectiveness of a response action, in order to ensure maintenance of a condition of no significant risk to public health or the environment.

#### **3.2.1 Health Department**

On January 5, 2007, the Santa Clara Valley Water District (SCVWD) was contacted to review files on the subject property and nearby sites of concern. Files at the SCVWD may contain information regarding hazardous materials storage, as well as information regarding unauthorized releases of petroleum hydrocarbons or other contaminants that may affect the soil or groundwater in the area.

No information indicating current or prior use or storage of hazardous materials, or the existence of AULs was on file for the subject property with the SCVWD.

Files reviewed for nearby sites of concern are discussed in Section 5.3.

#### **3.2.2 Fire Department**

On January 5, 2007, the San Jose Fire Department (SJFD) was contacted for information on the subject property to identify any evidence of previous or current hazardous material usage.

No information indicating current or prior use or storage of hazardous materials, or the existence of AULs was on file for the subject property with the SJFD.

### 3.2.3 Building Department

On January 5, 2007, the San Jose Building Department (SJBD) was contacted for information on the subject property in order to identify historical tenants and property use. Please refer to the following table for a listing of permits reviewed:

*Building Permits Reviewed for 3102 Landess Ave*

Year(s)	Owner/Applicant	Description of Permit / Building Use
1970	Continental Service Company	Construct 2-story building / bank
1970	Bank of America	Plumbing permit
1977	Bank of America	Electrical permit
1979	Bank of America	Alterations
1988	Bank of America	Reroof
1993	Korean Presbyterian Church	Add awning, alter bathroom, interior/exterior alterations
1993	Korean Presbyterian Church	Remodel bathrooms
1993	Korean Presbyterian Church	Install 16 outlets
1994	Bank of America	Certificate of Occupancy – Church/Classrooms

*Building Permits Reviewed for 2148 Morrill Ave*

Year(s)	Owner/Applicant	Description of Permit / Building Use
2000	Pacific Bell CEV	Install service pedestal and feed PacBell vault from pedestal

According to a review of building permits, the subject property building was constructed in 1970 and occupied by Bank of America until approximately 1993.

### 3.2.4 Planning Department

On January 8, 2007, the San Jose Planning Department (SJPD) was contacted for information on the subject property in order to identify AULs associated with the subject property.

No information indicating the existence of AULs was on file for the subject property with the SJPD.

### 3.2.5 Department of Oil and Gas

Department of Oil and Gas (DOG) maps concerning the subject property and nearby properties were reviewed. DOG maps contain information regarding oil and gas development.

According to the DOG map, there are no oil or gas wells within 500 feet of the subject property. No environmental concerns were noted during the DOG map review.

### 3.3 Sanborn Fire Insurance Maps

Sanborn Fire Insurance maps were developed in the late 1800s and early 1900s for use as an assessment tool for fire insurance rates in urbanized areas. A search was made of EDR's collection of Sanborn Fire Insurance maps on December 15, 2006.

Sanborn map coverage was not available for the subject property.

### 3.4 City Directories

A search of historic city directories was conducted for the subject property by EDR on December 20, 2006. Directories were available and reviewed for the years 1922-2001. The following table summarizes the results of the city directory search.

*City Directory Search Results*

<b>Year(s)</b>	<b>Occupant Listed</b>
1922	No listings
1926	No listings
1930	No listings
1935	No listings
1940	No listings
1945	No listings
1950	No listings
1955	No listings
1960	No listings
1966	3102 Landess: No listing 2148 Morrill: Anspach, Layne
1970	3102 Landess: No listing 2148 Morrill: O'Donnell, Ed
1975	3102 Landess: Blossom Hill-Kooser Office 2148 Morrill: Sciba, Donald
1980	3102 Landess: Branch Offices; Landess Morrill Branch 2148 Morrill: No listing
1985	3102: Bank of America 2148 Morrill: No listing
1991	No listings
1996	3102 Landess: Korean Presbyterian Church San Jose 2148 Morrill: No listing
2000	3102 Landess: Korean Presbyterian Church 2148 Morrill: No listing

No environmental concerns were noted during the city directory review.

## **4.0 INTERVIEWS AND USER PROVIDED INFORMATION**

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### **4.1 Interviews**

Pursuant to ASTM E1527-05, the following interviews were performed during this investigation in order to obtain information indicating RECs in connection with the subject property.

#### ***4.1.1 Interview with Owner***

The subject property owner, Elder Chol Chong, was not aware of any pending, threatened, or past litigation relevant to hazardous substances or petroleum products in, on, or from the subject property; any pending, threatened, or past administrative proceedings relevant to hazardous substances or petroleum products in, on, or from the subject property; or any notices from a governmental entity regarding any possible violation of environmental laws or possible liability relating to hazardous substances or petroleum products.

#### ***4.1.2 Interview with Report User***

The report user, Elder Chol Chong, was not aware of any pending, threatened, or past litigation relevant to hazardous substances or petroleum products in, on, or from the subject property; any pending, threatened, or past administrative proceedings relevant to hazardous substances or petroleum products in, on, or from the subject property; or any notices from a governmental entity regarding any possible violation of environmental laws or possible liability relating to hazardous substances or petroleum products.

#### ***4.1.3 Interview with Key Site Manager***

The key site manager, Elder Chol Chong, was not aware of any pending, threatened, or past litigation relevant to hazardous substances or petroleum products in, on, or from the subject property; any pending, threatened, or past administrative proceedings relevant to hazardous substances or petroleum products in, on, or from the subject property; or any notices from a governmental entity regarding any possible violation of environmental laws or possible liability relating to hazardous substances or petroleum products.

#### ***4.1.4 Past Owners, Operators and Occupants***

Information about past owners, operations or occupants was not reasonably ascertainable and constitutes a data gap. This was previously discussed in Section 1.4.

#### ***4.1.5 Interview with Others***

Information obtained during interviews with local government officials is incorporated into the appropriate segments of this section.

### **4.2 User Provided Information**

User provided information is intended to help identify the possibility of RECs in connection with the subject property. In addition, pursuant to ASTM E1527-05, the User completed the *ASTM User Questionnaire*. Please refer to Appendix C: References for a copy of the questionnaire.

#### ***4.2.1 Title Records/Environmental Liens/AULs***

The User did not provide any title records, AULs or documentation indicating environmental liens encumbering the subject property or any information regarding previous uses or ownership of the subject property that indicated recognized environmental conditions.

#### ***4.2.2 Specialized Knowledge***

AEI was not informed by the User of any specialized knowledge or experience that is material to RECs in the connection with the subject property.

#### ***4.2.3 Valuation Reduction for Environmental Issues***

The User did not indicate to AEI any information to suggest that the valuation of the subject property is significantly less than the valuation for comparable properties due to environmental factors.

#### ***4.2.4 Commonly Known or Reasonably Ascertainable Information***

The User did not inform AEI of any commonly known or reasonably ascertainable information within the local community that is material to RECs in the connection with the subject property.

#### ***4.2.5 Previous Reports and Other Provided Documentation***

No prior reports or relevant documentation in association with the subject property were made available to AEI during the course of this investigation.

## 5.0 REVIEW OF REGULATORY AGENCY RECORDS

The following information was obtained through a search of electronically compiled federal, state, county, and city databases provided by Environmental Data Resources, Inc. (EDR). The database search includes regulatory agency lists of known or potential hazardous waste sites, landfills, hazardous waste generators, and disposal facilities in addition to sites under investigation. The information provided in this report was obtained from publicly available sources. The locations of the sites listed in this report are plotted with a geographic information system utilizing geocoding of site addresses. The accuracy of these locations is generally +/- 300 feet. AEI's field representative has attempted to confirm the locations of listings on or adjacent to the subject property. Refer to the radius map (Appendix B: Regulatory Database Review Report) for the locations of the sites in relation to the subject property.

### 5.1 Records Summary

DATABASE REVIEWED	SUBJECT PROPERTY	ADJACENT PROPERTY
Identification as National Priorities List (NPL) "Superfund" site	No	No
Identification as a Federal Delisted NPL site	No	No
Identification as CERCLIS and/or CERCLIS/NFRAP site	No	No
Identification as hazardous waste handler and/or generator (RCRA-TSD, LG-GEN and/or SM-GEN)	No	No
Identification as RCRA CORRACTS site	No	No
Identification in Federal Institutional Control/Engineering Control Registries	No	N/A
Identification as an Emergency Response Notification Systems (ERNS) site	No	N/A
Identification as Historical State (Historical CalSites SPL/SCL) site	No	No
Identification as an ENVIROSTOR site	No	No
Identification as SLIC Site	No	No
Identification as solid waste landfill (SWLF)	No	No
Identification as HAZNET site	No	No
Identification as registered underground/aboveground storage tanks (UST/AST)	No	Yes

Identification as leaking underground storage tanks (LUST) site	No	<b>Yes</b>
Identification as a State DEED Restriction site	No	N/A
Identification as a State Voluntary Cleanup Program (VCP) site	No	No
Identification as Federal Land Use/Indian Lands of the U.S. sites	No	No
Identification as State/Tribal Brownfields site	No	No

The subject property was not identified during the regulatory database search. Two adjacent sites are listed as LUST sites on the regulatory database and are further discussed in Section 5.3.

## 5.2 Contaminant Migration

Migration of petroleum hydrocarbon or volatile organic compound (VOC) contamination is generally via groundwater. Therefore, only those contaminant release sites located hydrologically upgradient relative to the subject property are expected to represent a potential environmental concern to the subject property. Contaminated sites located hydrologically downgradient of the subject property are not expected to represent a potential threat to the groundwater quality beneath the subject property. Sites that are situated hydrologically cross-gradient relative to the subject property are not expected to represent a concern unless close proximity allows for the potential of lateral migration. As discussed in Section 2.3, groundwater in the vicinity of the subject property is assumed to flow to the west. Migration of VOC contaminants in the vapor phase have also been documented which have the potential to impact the subject property; however, evaluation of vapor phase migration and intrusion is beyond the scope of this assessment.

## 5.3 Record Details

**National Priorities List (NPL)** is EPA's national listing of contaminated sites targeted for cleanup because they pose a threat to human health and the environment. The Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA or Superfund) authorizes and requires the EPA to investigate, categorize, and enforce the cleanup of hazardous waste sites on the NPL. An NPL site on or near a particular property may threaten the environmental integrity of the property or affect its marketability.

No sites within a 1-mile radius of the subject property were identified during the NPL database search.

**Federal Delisted NPL List** consists of sites that no longer require further response actions as determined by the EPA.

No sites within a ½-mile radius of the subject property were identified during the Delisted NPL database search.

**CERCLIS and CERCLIS/NFRAP List** consists of sites that the EPA has investigated or is presently investigating for release or threatened release of hazardous substances, which may be subject to review in accordance with the terms and conditions of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA, also known as Superfund). Sites listed on the “No Further Remedial Action Planned” (NFRAP) database are sites where, following an initial investigation, no contamination was found, contamination was removed quickly, or the contamination was not serious enough to require federal Superfund or NPL consideration.

No sites within a ½-mile radius of the subject property were identified during the CERCLIS/NFRAP database search.

**Resource Conservation and Recovery Act (RCRA) Program** identifies and tracks hazardous waste from the point of generation to the point of disposal. Information from the RCRA database is divided into three categories: TSD, LG GEN and SM GEN. The TSD category is searched to a 1-mile radius and tracks facilities which treat, store and/or dispose of hazardous waste. LG GEN, or large generators, are facilities that generate more than 1000 kg of hazardous waste per month. SM GEN, or small generators, are facilities that generate between 100 and 1000 kg of hazardous waste per month. The LG-GEN and SM-GEN databases are searched up to a 1/8-mile radius from the subject property.

No sites within a 1-mile radius of the subject property were identified during the RCRA-TSD database search.

Three (3) sites within a 1/8-mile radius of the subject property were identified during the RCRA (LG-and SM-GEN) database search.

The storage, treatment, disposal and/or generation of hazardous materials at these sites is not a significant environmental concern based on the lack of a documented release or factors discussed in prior segments of Section 5.3.

**CORRACTS** is an EPA-maintained database of Resource Conservation and Recovery Act (RCRA) facilities undergoing “corrective action”. A “corrective action order” is issued when there has been a release of hazardous waste or constituents into the environment from a RCRA facility. Corrective actions may be required beyond the facility’s boundary and can be required regardless of when the release occurred, even if it predates RCRA.

One site within a 1-mile radius of the subject property was identified during the CORRACTS database search. The site is plotted in excess of 1/2-mile from the subject property. Based on relative distance, regulatory status, and/or the inferred direction of groundwater flow, this site is not expected to represent a significant environmental concern.

**Federal Institutional Control (IC)/Engineering Control (EC) Registries** consist of sites with institutional controls (administrative measures such as land use restrictions, deed restrictions and post remediation requirements intended to prevent exposure to contaminants remaining on site), and engineering controls (physical methods to create pathway elimination for regulated substances to enter environmental media or effect human health).

The subject property was not identified in the Federal IC/EC database search.

**Emergency Response Notification Systems (ERNS) List** is EPA’s database of emergency response actions.

The subject property was not identified during the ERNS database search.

**Historical California Sites (CalSites)** are provided by the California Environmental Protection Agency (EPA), Department of Toxic Substances Control (DTSC) and include state equivalent

NPL (SPL) and CERCLIS (SCL) sites. The CalSites database contains potential or confirmed hazardous substance release properties. In 1996, California EPA reevaluated and significantly reduced the number of sites in the CalSites database. The database is no longer updated by the state agency and has been replaced by EnviroStor.

Two (2) sites within a 1-mile radius of the subject property were identified during the Historical CalSites database search. Both sites are plotted in excess of ¼-mile and hydrologically down- to cross-gradient from the subject property. Based on relative distance, regulatory status, and/or the inferred direction of groundwater flow, these sites are not expected to represent a significant environmental concern.

**ENVIROSTOR** is a database maintained by the DTSC Site Mitigation and Brownfields Reuse Program, which identifies sites that have known contamination or sites for which there may be reasons to investigate further. The database includes the following site types: Federal Superfund sites (NPL); States Response, including Military Facilities and State Superfund; Voluntary Cleanup; and School sites. EnviroStor provides similar information to the information that was available in CalSites, and provides additional site information, including, but not limited to, identification of formerly contaminated properties that have been released for reuse, properties where environmental deed restrictions have been recorded to prevent inappropriate land uses, and risk characterization information that is used to assess potential impacts to public health and the environment at contaminated sites.

Four (4) sites within a 1-mile radius of the subject property were identified during the Envirostor database search. All four sites are plotted in excess of ¼-mile and hydrologically down- to cross-gradient from the subject property. Based on relative distance, regulatory status, and/or the inferred direction of groundwater flow, these sites are not expected to represent a significant environmental concern.

**SLIC sites** are provided by the Regional Water Quality Control Board (RWQCB). This list includes sites that have recorded spills, leaks, investigations, and cleanups.

No sites within a ⅛-mile radius of the subject property were identified during the SLIC database search.

**Solid Waste Landfills (SWLF)** is a database generated by the State of California Solid Waste Information System (SWIS), which includes active and inactive landfills and transfer stations within the state maintained by the California Integrated Waste Management Board.

No sites within a ½-mile radius of the subject property were identified during the SWLF database search.

**HAZNET Sites** database consists of data that is extracted from the copies of hazardous waste manifests received each year by the DTSC.

The subject property was not identified during the HAZNET database search.

**Underground/Aboveground Storage Tanks (UST/AST) List** is a comprehensive listing of registered underground and aboveground storage tanks located within the State of California.

Two (2) sites within a ¼-mile radius of the subject property were identified during the UST/AST database search. Due to the lack of a documented release or factors discussed in the LUST segment of Section 5.3, the storage of hazardous materials within registered tanks is not a significant environmental concern.

**Leaking Underground Storage Tanks (LUST) List** is a list produced by the Regional Water Quality Control Board (RWQCB) of known sites with current or former leaking underground storage tanks on the premises.

Six (6) sites within a ½-mile radius of the subject property were identified during the LUST database search. Five (5) of these sites are plotted within ⅛-mile from the subject property and are discussed below:

- The Unocal gas station at 3096 Landess Avenue is located adjacent to the west beyond Morrill Avenue (hydrologically down-gradient). According to files reviewed at the Santa Clara Valley Water District (SCVWD) website, quarterly groundwater results for August of 2006 indicated maximum concentrations of 1,400 micrograms per liter (µg/L) benzene; 96,000 µg/L total petroleum hydrocarbons as gasoline (TPH-g); and 6,500 µg/L methyl tert-butyl ether (MTBE) beneath the site. Groundwater was encountered at 30 to 36 feet bgs and flows to the west. Offsite wells have been installed down-gradient to the west to characterize the extent of the groundwater contamination plume. Based on the direction of groundwater flow, contamination is not expected to migrate towards the subject property and is therefore not expected to represent a significant environmental concern.
- The Chevron gas station at 1490 South Park Victoria Drive is located adjacent to the north beyond Landess Avenue (hydrologically cross-gradient). According to files reviewed at the SCVWD, quarterly groundwater results for August of 2006 indicated maximum concentrations of 230 µg/L MTBE and 10 µg/L tertiary amyl methyl ether (TAME). No TPH, benzene, toluene, ethylbenzene, or xylenes (BTEX) were detected. Groundwater at this site was also measured as flowing to the west. Based on the direction of groundwater flow, contamination is not expected to migrate towards the subject property and is therefore not expected to represent a significant environmental concern.
- The Arco gas station at 1575 Landess Avenue is located approximately 274 feet to the northwest (hydrologically down- to cross-gradient) beyond the intersection of Landess Avenue and Morrill Avenue. The site is listed twice as a LUST site, corresponding to two separate cases. According to the SCVWD, piping and dispensers were replaced at the site in 2000, and following soil and groundwater sampling, the case was closed due to low petroleum hydrocarbon concentrations and localized contamination. The second case refers to the removal of four (4) gasoline USTs and one waste oil UST in 1988. Contaminated soils

were excavated and groundwater sampling results were non-detect for constituents of concern. Based on regulatory status and the direction of groundwater flow, this site is not expected to represent a significant environmental concern.

- The Firestone Store at 1379 South Park Victoria Drive is plotted 465 feet northwest (hydrologically down- to cross-gradient) of the subject property. According to files reviewed at the SCVWD, a waste oil UST was removed from the site in approximately 1991. Contaminated soils were excavated and removed, and soil sampling results indicated that groundwater was not threatened by the contamination. The case was granted closure in 1994. Based on regulatory status and the inferred direction of groundwater flow, this site is not expected to represent a significant environmental concern.

The remaining site is plotted in excess of 1/8-mile from the subject property. Based on relative distance, regulatory status, and/or the inferred direction of groundwater flow, this site is not expected to represent a significant environmental concern.

**State Deed Restriction (DEED) List** is maintained by the DTSC Site Mitigation and Brownfields Reuse Program (SMBRP) and Hazardous Waste Management Program (HWMP). The SMBRP list includes sites cleaned up under the program's oversight and generally does not include current or former hazardous waste facilities that required a hazardous waste facility permit. The list represents deed restrictions that are active. The HWMP has developed a list of current or former hazardous waste facilities that have a recorded land use restriction at the local county recorder's office. The land use restrictions on this list were required by the DTSC HWMP as a result of the presence of hazardous substances that remain on site after the facility (or part of the facility) has been closed or cleaned up. The types of land use restriction include deed notice, deed restriction, or a land use restriction that binds current and future owners.

The subject property was not identified during the DEED database search.

**State Voluntary Cleanup Program (VCP) Sites** are incorporated in the DTSC SMBRPD database which identifies sites that have known contamination, or those properties undergoing voluntary investigation and/or cleanup and which are listed in the VCP program.

No sites within a 1/2-mile radius of the subject property were identified during the State VCP database search.

**Federal Land Use/Indian Lands of the U.S.** is a database of areas administered by the Bureau of Indian Affairs which include areas of 640 acres or more. Included in the database are Federally-administered lands within a reservation which may or may not be considered part of the reservation. Hazardous materials use/storage permits, LUSTs and USTs on Indian Lands may also be incorporated in the State database listings.

No sites within a 1/2-mile radius of the subject property were identified during the Federal Land Use/Indian Lands Use database search.

**State/Tribal Brownfields** is a database of abandoned or underused industrial and/or commercial properties that are contaminated (or thought to be contaminated) and have an active potential for redevelopment. Various states do not have specific Brownfields programs, and thus the information may also be incorporated in the State database listings.

No sites within a ½-mile radius of the subject property were identified during the Brownfields database search.

## 6.0 SITE INSPECTION AND RECONNAISSANCE

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On January 4, 2007, a site reconnaissance of the subject property and adjacent properties was conducted by Sam Rankin of AEI in order to obtain information indicating the likelihood of recognized environmental conditions at the subject property and adjacent properties as specified in ASTM Standard Practice E1527-05 §8.4.2, 8.4.3 and 8.4.4.

### 6.1 On-Site Observations

Identified		Observation
Yes	No	
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Hazardous Substances and/or Petroleum Products in Connection with Property Use
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Aboveground & Underground Hazardous Substance or Petroleum Product Storage Tanks (ASTs / USTs)
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Hazardous Substance and Petroleum Product Containers and Unidentified Containers not in Connection with Property Use
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Unidentified Substance Containers
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Electrical or Mechanical Equipment With the Potential to Contain PCBs
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Interior Stains or Corrosion
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Strong, Pungent or Noxious Odors
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Pools of Liquid
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Drains, Sumps and Clarifiers
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Pits, Ponds and Lagoons
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Stained Soil or Pavement
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Stressed Vegetation
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Solid Waste Disposal or Evidence of Fill Materials
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Waste Water Discharges
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Wells
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Septic Systems
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Other

The subject property is currently occupied by the San Jose Korean Presbyterian Church. No hazardous materials or petroleum products are utilized during these activities.

#### *Drains, Sumps and Clarifiers*

Four (4) storm drains were observed in the parking area of the subject property. No hazardous substances or petroleum products were noted in the vicinity of the drains. Based on the use of the drains solely for storm water runoff, the presence of the drains is not expected to represent a significant environmental concern.

## 6.2 Non-ASTM Services

### *Asbestos-Containing Building Materials*

For buildings constructed prior to 1980, the Code of Federal Regulations (29 CFR 1926.1101) states that all thermal system insulation (boiler insulation, pipe lagging, and related materials) and surface materials must be designated as “presumed asbestos-containing material” (PACM) unless proven otherwise through sampling in accordance with the standards of the Asbestos Hazard Emergency Response Act.

Due to the age of the subject property building, there is a potential that ACMs are present. The condition and friability of the identified suspect ACMs is noted in the following table:

*Suspect Asbestos Containing Materials (ACMs)*

Material	Location	Friable	Condition
Drywall Systems	Throughout Building Interior	Yes	Good
Ceiling Tiles	Throughout Building Interior	Yes	Good to Fair
Vinyl Flooring	Kitchen/Classrooms	No	Good
Roofing Systems	Roof	Not Inspected	Not Inspected

All observed suspect ACMs were in good to fair condition and are not expected to pose a health and safety concern to the occupants of the subject property at this time.

Regardless of building construction date, the EPA’s National Emission Standards for Hazardous Air Pollutants (NESHAP) requires that an asbestos survey adhering to AHERA sampling protocol be performed prior to demolition or renovation activities that may disturb ACMs. This requirement may be enforced by the local air pollution control or air quality management district, and specifies that all suspect asbestos-containing materials (ACMs) be sampled to determine the presence or absence of asbestos prior to any renovation or demolition activities to prevent potential exposure to workers and/or building occupants. Similarly, OSHA regulations require that specific work practices be implemented when handling construction materials and debris that contain lead-containing materials (see below).

### *Lead-Based Paint*

Lead-based paint is defined as any paint, varnish, stain, or other applied coating that has 1 mg/cm<sup>2</sup> (or 5,000 ug/g by dry weight) or more of lead. Section 1017 of the Housing and Urban Development Guidelines, Residential Lead-Based Paint Hazard Reduction Act of 1992, otherwise known as “Title X”, defines a lead-based paint hazard is “any condition that causes exposure to lead that would result in adverse human health effects” resulting from lead-contaminated dust, bare, lead-contaminated soil, and/or lead-contaminated paint that is deteriorated or present on accessible, friction, or impact surfaces. Therefore, under Title X, intact lead-based paint on most walls and ceilings would not be considered a “hazard”, although the paint should be maintained and its condition monitored to ensure that it does not deteriorate and become a hazard. Additionally, Section 1018 of this law directed HUD and EPA to require the disclosure of known information on lead-based paint and lead-based paint hazards before the

sale or lease of most housing built before 1978. Most private housing, public housing, Federally owned housing, and housing receiving Federal assistance are affected by this rule.

In buildings constructed after 1978, it is very unlikely that lead-based paint is present. Due to the age of the subject property building, there is a potential that lead-based paint is present. Both interior and exterior painted surfaces were observed to be in good condition and are not expected to pose a health and safety concern to the occupants of the subject property at this time.

### ***Radon***

Radon is a naturally-occurring, odorless, invisible gas. Natural radon levels vary and are closely related to geologic formations. Radon may enter buildings through basement sumps or other openings.

The US EPA has prepared a map to assist National, State, and local organizations to target their resources and to implement radon-resistant building codes. The map divides the country into three Radon Zones, Zone 1 being those areas with the average predicted indoor radon concentration in residential dwellings exceeding the EPA Action limit of 4.0 picoCuries per Liter (pCi/L). It is important to note that the EPA has found homes with elevated levels of radon in all three zones, and the EPA recommends site specific testing in order to determine radon levels at a specific location. However, the map does give a valuable indication of the propensity of radon gas accumulation in structures.

Radon sampling was not requested as part of this investigation. According to the US EPA, the radon zone level for the area is Zone 2, which has a predicted average indoor screening level between 2 pCi/L and 4 pCi/L, at or below the action level of 4.0 pCi/L set forth by the EPA.

### ***Drinking Water Sources and Lead in Drinking Water***

The Santa Clara Valley Water District supplies potable water to the subject property. The most recent water quality report states that lead levels in the areas water supply were non-detect and therefore are well within standards established by the U.S. EPA.

### ***Mold/Indoor Air Quality Issues***

Molds are simple, microscopic organisms, which can often be seen in the form of discoloration, frequently green, gray, white, brown or black. When excessive moisture or water accumulates indoors, mold growth will often occur, particularly if the moisture problem remains undiscovered or is not addressed. As such, interior areas of buildings characterized by poor ventilation and high humidity are the most common locations of mold growth. Building materials including drywall, wallpaper, baseboards, wood framing, insulation, and carpeting often play host to such growth. Mold spores primarily cause health problems through the inhalation of mold spores or the toxins they emit when they are present in large numbers. This can occur primarily when there is active mold growth within places where people live or work.

Mold, if present, may or may not visually manifest itself. Neither the individual completing this inspection, nor AEI has any liability for the identification of mold-related concerns except as defined in applicable industry standards. In short, this Phase I ESA should not be construed as a mold survey or inspection.

AEI Consultants observed interior areas of the subject building in order to identify the significant presence of mold or conditions conducive to mold growth. During the on-site reconnaissance, AEI observed water damage to ceiling tiles in one of the downstairs bathrooms. However, the tile did not appear wet and no mold growth was observed. Based on these observations, the ceiling tile is not expected to represent a significant concern.

Please refer to Appendix A for related photographs.

This activity was not designed to discover all areas which may be affected by mold growth on the Property. Rather, it is intended to give the client an indication if significant (based on observed areas) mold growth is present at the Property. Additional areas of mold not observed as part of this limited assessment, possibly in pipe chases, HVAC systems and behind enclosed walls and ceilings, may be present on the Property.

### 6.3 Adjacent Property Reconnaissance Findings

Identified		Observation
Yes	No	
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Hazardous Substances and/or Petroleum Products in Connection with Property Use
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Aboveground & Underground Hazardous Substance or Petroleum Product Storage Tanks (ASTs / USTs)
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Hazardous Substance and Petroleum Product Containers and Unidentified Containers not in Connection with Property Use
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Unidentified Substance Containers
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Electrical or Mechanical Equipment Likely to Contain PCBs
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Interior Stains or Corrosion
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Strong, Pungent or Noxious Odors
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Pool of Liquid
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Drains and Sumps
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Pits, Ponds and Lagoons
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Stained Soil or Pavement
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Stressed Vegetation
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Solid Waste Disposal or Evidence of Fill Materials
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Waste Water Discharges
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Wells
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Septic Systems
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Other

#### ***Aboveground & Underground Hazardous Substance or Petroleum Product Storage Tanks (ASTs / USTs)***

A propane AST and two (2) gasoline UST fill ports were observed at the 76 Station to the west beyond Morrill Avenue. Three (3) UST fill ports were observed at the Chevron Station to the north beyond Landess Avenue. No spills, stains, or drains were observed in the vicinity of the AST. Based on this information, the AST is not expected to represent a significant environmental concern. Environmental concerns associated with the USTs were previously discussed in Section 5.3.

#### ***Drains and Sumps***

Four (4) storm drains were observed on the adjacent properties. No hazardous substances or petroleum products were noted in the vicinity of the drains. Based on the use of the drains solely for storm water runoff, the presence of the drains is not expected to represent a significant environmental concern.

#### ***Wells***

Twenty (20) groundwater monitoring wells were observed at the 76 Station to the west and seven (7) groundwater monitoring wells were observed at the Chevron Station to the north. Groundwater sampling results associated with these wells were previously discussed in Section 5.3.

## 7.0 FINDINGS AND CONCLUSIONS

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### *Findings*

Recognized environmental conditions (RECs) are defined by the ASTM Standard Practice E1527-05 as the presence or likely presence of any hazardous substances or petroleum products under conditions that indicate an existing release, a past release, or a material threat of a release into structures on the property or into the ground, groundwater, or surface water of the property. AEI's investigation has revealed the following recognized environmental conditions associated with the subject property or nearby properties:

- No on-site recognized environmental conditions were identified during the course of this investigation.

Historical recognized environmental conditions (HRECs) are defined by the ASTM Standard Practice E1527-05 as an environmental condition which in the past would have been considered a recognized environmental condition, but which may or may not be considered a recognized environmental condition currently. AEI's investigation has revealed the following historical recognized environmental conditions associated with the subject property or nearby properties:

- No on-site historical recognized environmental conditions were identified during the course of this investigation.

Environmental issues include environmental concerns identified by AEI that warrant discussion but do not qualify as recognized environmental conditions, as defined by the ASTM Standard Practice E1528-00. AEI's investigation has revealed the following environmental issues associated with the subject property or nearby properties:

- The Unocal gas station at 3096 Landess Avenue is located adjacent to the west beyond Morrill Avenue (hydrologically down-gradient). According to files reviewed at the SCVWD website, quarterly groundwater results for August of 2006 indicated maximum concentrations of 1,400 µg/L benzene; 96,000 µg/L TPH-g; and 6,500 µg/L MTBE beneath the site. Groundwater was encountered at 30 to 36 feet bgs and flows to the west. Offsite wells have been installed down-gradient to the west to characterize the extent of the groundwater contamination plume. Based on the direction of groundwater flow, contamination is not expected to migrate towards the subject property and is therefore not expected to represent a significant environmental concern.
- The Chevron gas station at 1490 South Park Victoria Drive is located adjacent to the north beyond Landess Avenue (hydrologically cross-gradient). According to files reviewed at the SCVWD, quarterly groundwater results for August of 2006 indicated maximum concentrations of 230 µg/L MTBE and 10 µg/L TAME. No TPH or BTEX were detected. Groundwater at this site was also measured as flowing to the west. Based on the direction of groundwater flow, contamination is not expected to migrate towards the subject property and is therefore not expected to represent a significant environmental concern.

- Due to the age of the subject property building, there is a potential that asbestos-containing materials (ACMs) and/or lead-based paint are present. All suspect ACMs and painted surfaces were observed in good to fair condition and are not expected to pose a health and safety concern to the occupants of the subject property at this time.
- The subject property was historically used for agricultural purposes. There is a potential that agricultural chemicals, such as pesticides, herbicides and fertilizers, were used onsite. The entire area of the subject property is either paved over or covered by improvements that make direct contact with any potential remaining concentrations in the soil unlikely. If redevelopment of the subject property is planned for residential use, the owner/user of the report should contact the local planning department to determine whether sampling relating to the former agricultural use of the subject property is required.

### ***Conclusions, Opinions, and Recommendations***

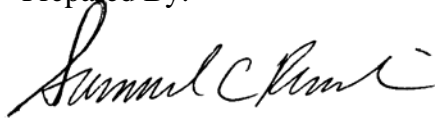
AEI's investigation has revealed no evidence of recognized environmental conditions associated with the subject property or nearby properties. AEI recommends no further investigations for the subject property at this time.

## 8.0 SIGNATURE OF ENVIRONMENTAL PROFESSIONALS

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AEI Consultants has performed a Phase I Environmental Site Assessment for the property located at 3102 Landess Avenue and 2148 Morrill Avenue in the City of San Jose, Santa Clara County, California, in conformance with the scope and limitations of ASTM Standard Practice E1527-05 and the Environmental Protection Agency Standards and Practices for All Appropriate Inquiries (40 CFR Part 312). Any exceptions to, or deletions from, this practice are described in Section 1.2 of this report.

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